Saturday
28th August, 1948

THE

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART I—QUESTIONS AND ANSWERS)

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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES.

(PART I—QUESTIONS AND ANSWERS)

Saturday, 28th August, 1948

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS

RUNNING OF TRAINS TO TIME

687. *Mr. R. K. Sidhva: Will the Honourable Minister of Railways be pleased to state what steps Government have taken to see that trains run to time and with what results?

The Honourable Dr. John Matthai: All possible efforts are being made to improve the running of trains to time, including organisation of special punctuality drives and intensification of supervision, with fairly successful results.

Mr. R. K. Sidhva: My question is definite: whether the trains run to time and with what results. May I know whether there has been any improvement after we last met for the March Session: that is, between April and now, compared with the previous period?

The Honourable Dr. John Matthai: Since this matter was discussed during the budget discussions last February, we have been trying to organise a fairly intensive punctuality drive as far as long distance mail and express trains are concerned and I have been examining very carefully the figures regarding times of arrival and times of departure. As far as these trains are concerned, there has been a perceptible improvement. Of course, there are lapses here and there. For example during the past two or three weeks, on account of the serious floods and breaches that occurred in Bihar and Bengal, there has been a set back which could not be helped. But in respect of these long-distance trains, I am right in saying that there has been a distinct improvement.

Mr. R. K. Sidhva: The Honourable Minister stated in the last budget session that the Frontier Mail, which leaves Bombay and arrives in Delhi, could not be brought in in time due to single line running between Muttra and Delhi. He said another line was under contemplation. Has the double line been constructed, or is it under construction with the object of bringing in the Frontier Mail earlier?

The Honourable Dr. John Matthai: As regards the doubling of the line between Muttra and Delhi, that work is making satisfactory progress, and I expect the double section will be open to traffic in the course of a few months. As far as the Frontier Mail is concerned I find that recently it has been running a good deal better than in the past.

Pandit Balkrishna Sharma: Has the attention of the Honourable Minister been drawn to the news-item which appeared in an important Delhi weekly, that a man wanted to commit suicide by throwing himself on the track of the Grand Trunk Express but the Grand Trunk Express did not come and he had to die of starvation?

Mr. Speaker: Order, order.

Shri H. V. Kamath: At present among the various trains, which is the most notorious late runner?

The Honourable Dr. John Matthai: The Calcutta trains have been fairly satisfactory during the past two or three months. There have been difficulties occasionally between Bombay and Delhi. But I am considering the Frontier Mail in many ways the "Prize" train, so to speak, of the country, and we have been making very special efforts in order to get the Frontier Mail to arrive in time, and I think we have to some extent succeeded.

With regard to the report in the Delhi weekly, all I can say is that the individual who went and lay in front of the Grand Trunk Express in order to do away with himself chose a very bad train for the purpose.

Mr. Frank Anthony: Is there any method of ensuring that trains are not delayed by the incompetence or indifference of drivers?

The Honourable Dr. John Matthai: That has not occurred on these long-distance trains. But since there has been a considerable amount of dissatisfaction regarding the pay scales proposed by the Pay Commission for running staff, there has been some difficulty regarding the running crew. But we, as the honourable member knows, appointed a special committee to go into that very question and their proposals are under examination and I hope to arrive at a very early decision on that matter.

Mr. Frank Anthony: Is there any method of penalizing drivers who have been found responsible for avoidable delays?

The Honourable Dr. John Matthai: Of course it is possible for me to penalize every member of the railway staff who conducts himself in these irregular ways. But when you have to undertake penalization on so large a scale, it is likely to have repercussions which would not be in the public interest.

Shri M. Tirumala Rao: With regard to the steps Government have taken, have they deputed a special Inspector to travel on these mail trains, especially the Madras-Calcutta Mail, to see and check up whether the delays caused are not dilatory but due to the negligence of the driver or the guard?

The Honourable Dr. John Matthai: That is precisely one of the things I have done. Transportation Officers are being asked to make frequent trips on the engines of these trains to examine defects.

Shri H. V. Kamath: How much of this late-running or delay is due to hold-ups or raiding of trains by *goondas* and similar elements?

The Honourable Dr. John Matthai: That is true. It has happened frequently.

Shri M. Tirumala Rao: With regard to the constant delays of trains, it is said that the rolling stock is not in good order. Has the Chief Commissioner of Railways succeeded in placing a large order for locomotives abroad as a result of his recent visit?

The Honourable Dr. John Matthai: The Chief Commissioner of Railways's mission abroad for the purpose of purchasing locomotives and spare parts for locomotives has been a successful one, and I hope to issue a communique on that subject, which will give the House and the public detailed information of what we have been able to do.

Shri M. Tirumala Rao: What is the number of locomotives?

The Honourable Dr. John Matthai: I shall give the details in the statement, I am compiling.

Babu Ramnarayan Singh: The Honourable Minister says that there has been an improvement in the arrival of trains or the situation is a bit satisfactory. May I know what is meant by all this? Is it that all the trains do not come in very late, though they are late, or is it that only some of them come late?

The Honourable Dr. John Matthai: It is very difficult to give a precise answer to my honourable friend's question. When I say that there has been a perceptible improvement, I mean that the percentage of trains arriving in time is considerably higher now than it was three months ago.

Shri H. V. Kamath: How many train hold-ups have there been during the last twelve months by *goondas* and other raiders?

The Honourable Dr. John Matthai: There have not been very many cases of that kind. But I thought the honourable member's question was something else. As the result of frequent examination of trains in respect of contraband traffic and so on, and also of undesirable people passing from one area to another, it has been necessary for law and order purposes to stop trains at various points which is a cause of delays.

REPORT OF COMMITTEE ON NEW PORTS IN CUTCH, KATHIAWAR AND SOUTH INDIA

638. ***Mr. R. K. Sidhva:** (a) Will the Honourable Minister of Transport be pleased to state whether the Committee appointed to investigate and report on suitable new ports in Cutch, Kathiawar and South India have submitted their report?

(b) If so, what are their recommendations and when are Government likely to arrive at a decision thereon?

(c) If the Committee has not completed its investigations as far as Bhatkal (S. India) harbour is concerned, do Government propose to publish the decision of the Committee on Cutch and Kathiawar ports?

The Honourable Dr. John Matthai: (a) The report of the West Coast Major Port Development Committee regarding ports in the stretch of coast covering Kathiawar and Cutch has been received, but that for ports in South India between Marmagoa and Cochin has not yet been received.

(b) Government are considering the recommendations, and their decision together with the report will be published shortly.

(c) Yes.

Mr. R. K. Sidhva: What is the recommendation of the Committee as regards Cutch and Kathiawar? What port have they recommended?

The Honourable Dr. John Matthai: The honourable member put the same question last week and it was answered. Kundla is the recommendation.

Mr. R. K. Sidhva: In view of the recommendation being Kundla, may I know whether the Government have acquired about ten square miles of area round about that port? If so, does that area come within the area given by the Maharaja to the colony which is going to be started by some Sindhis?

The Honourable Dr. John Matthai: Government have not purchased any land. All that Government have done is to freeze values in that area in order to prevent speculation.

Shri H. V. Kamath: As regards the Konkan coast between Marmagoa and Cochin how many different parts are competing for Government's favour in this respect?

The Honourable Dr. John Matthai: The matter is one on which the Committee is in a better position to speak than myself. As far as I have seen representations on the subject, the ports which have been mentioned are Bhatkal, Karwar, Mangalore and Malpe.

Dr. B. Pattabhi Sitaramayya: Is it proposed to develop Sicca side by side with Kundla?

The Honourable Dr. John Matthai: This matter is under the consideration of the Government and we hope to arrive at a decision very shortly.

Dr. B. V. Keskar: May I know the reasons why the Government have not considered the advisability of having a port on the coast between Bombay and Goa where you can have first class deep water?

The Honourable Dr. John Matthai: All the investigations we have ordered have proceeded from a preliminary survey made by an earlier committee, the Ports Technical Committee. It is on the basis of their proposals that the present investigations have been started.

Shri M. Tirumala Rao: Is there any proposal in the report to develop any port between Madras and Vizagapatam?

The Honourable Dr. John Matthai: Not that I am aware of.

Mr. R. K. Sidhva: May I know whether the Mysore Government have recommended the development of Bhatkal harbour?

The Honourable Dr. John Matthai: I believe the Mysore Government have done so.

Prof. N. G. Ranga: As far as South India is concerned, are any steps being taken by the Central Government to persuade the provincial governments to develop their minor ports at a larger number of places than there are at present?

The Honourable Dr. John Matthai: We are constantly in consultation with the provincial governments on the subject.

Prof. N. G. Ranga: Do Government give them any financial assistance for the development of these ports?

The Honourable Dr. John Matthai: I am afraid not.

Shrimati Dakshayani Velayudhan: May I know whether the Government have any plan to bring all the ports on the West Coast under the direct control of the Central Government?

The Honourable Dr. John Matthai: The major port of Cochin is under the control and direction of the Central Government. As far as other ports are concerned there is no such proposal.

COLD STORAGE PLANTS FOR PRESERVATION OF FOODSTUFFS

539. *Mr. R. K. Sidhva: (a) Will the Honourable Minister of Agriculture be pleased to state whether it is a fact that Government propose to install cold storage plants for the preservation of foodstuffs like fruits etc.?

(b) If so, what are the places where they will be installed? What will be the total cost of each plant and when is the work likely to start?

(c) Do Government propose to install such plants at all places and lease them out to contractors or do they propose to give all facilities to those who intend to build cold storage tanks?

The Honourable Shri Jairamdas Doulatram: (a) The installation of cold storage plants has mostly been left to private enterprise. The Government of India have, however, ordered a cold storage plant for research and experimental work as part of the Pilot Fisheries Project at Bombay. Madras and West Bengal Governments also are putting up one cold storage plant.

(b) The Central Government's plant at Bombay is estimated to cost about rupees five lakhs. Part of the machinery and equipment has arrived in India and the remainder is expected by the end of 1948. It is hoped that the plant will be ready for working by the middle of 1949.

(c) No. The Government of India are, however, prepared to assist private parties in the procurement of necessary equipment, as far as practicable.

Mr. R. K. Sidhva: May I know whether the cold storage plants which are to be installed will be handed over to private concerns after their erection or the Government will run them?

The Honourable Shri Jairamdas Doulatram: The Madras and West Bengal Governments will have their own storage plants. Ordinarily private parties will put up the cold storage plants with our assistance.

Mr. R. K. Sidhva: Have the Government of India any plan for running their own cold storage plant?

The Honourable Shri Jairamdas Doulatram: The Government of India have got one at Bombay.

Prof. N. G. Ranga: What is the capacity of the Government of India plant at Bombay? How many tons can it store?

The Honourable Shri Jairamdas Doulatram: It is comparatively a small plant, because it was primarily meant for the fisheries section and for the purpose of experiment and research. I cannot straight off give its capacity. In the case of the other plants usually the capacity is about 600 tons on an average. It varies from about 200 to 2,000 tons.

Prof. N. G. Ranga: Are these intended only for fish and fruit preservation or for other products as well?

The Honourable Shri Jairamdas Doulatram: They are largely for seed potatoes, fish, fruits, vegetables and for seeds of foodgrains as also for various other purposes.

Prof. N. G. Ranga: Is there any scheme to give any sort of grant or subsidy or loan to provincial governments to establish such cold storage plants in larger numbers?

The Honourable Shri Jairamdas Doulatram: I do not know whether it would be possible to give loans to provincial governments for the purpose but if provincial governments want to put up these plants we would give them technical assistance.

Shri H. V. Kamath: Is there any difference between a cold storage plant referred to in part (a) of the question and a cold storage tank referred to in part (c)?

The Honourable Shri Jairamdas Doulatram: There is no difference.

Shri H. V. Kamath: Are they called tanks or plants?

The Honourable Shri Jairamdas Doulatram: Plants.

Shri B. P. Jhunjhunwala: May I know if any cold storage plant has been started at Ghaziabad and if so, what are the goods that are to be stored there?

The Honourable Shri Jairamdas Doulatram: There is one cold storage plant at Ghaziabad largely for seed potatoes. I had invited the members of the Assembly to see it.

Dr. P. S. Deshmukh: Is there any proposal under the consideration of the Government regarding the cold storage of oranges from Nagpur?

The Honourable Shri Jairamdas Doulatram: Yes, there is. I think the Central Provinces have got two plants.

Shri M. Tirumala Rao: Is there an ice-manufacturing plant attached to these cold storage plants?

The Honourable Shri Jairamdas Doulatram: Yes. An ice-manufacturing plant is ordinarily a part of the cold storage plant.

Shri M. Tirumala Rao: Is also ice sold to the public by the Government in these government-owned factories?

The Honourable Shri Jairamdas Doulatram: I do not think ice is sold, except for those who want to preserve their fruits, or other foodstuffs.

Shri M. Ananthasayanam Ayyangar: Is there any proposal on the part of the Government to install plant or machinery for the manufacture of cold storage plants, so as to popularise them all over the country?

The Honourable Shri Jairamdas Doulatram: I think it would be very premature to have such a plant at present. There are so many development plans in India that we will have to find money for them also. It is all a question of allocation of funds for urgent and less urgent purposes.

Shri M. Ananthasayanam Ayyangar: Is the Government aware that a cold storage plant which is used for household purposes costs only about Rs. 50 or 60 for its manufacture in America? There are a number of our young men who have gone to America for studying the manufacture of such cold storage plants.

The Honourable Shri Jairamdas Doulatram: I am afraid there is some misunderstanding in regard to the meaning of cold storage plants. A cold storage plant costs lakhs of rupees.

Dr. B. Pattabhi Sitaramayya: Do Government propose to install a cold storage plant for some of the inconvenient Bills in this House?

Shri B. P. Jhunjhunwala: There is a cold storage plant in Ghaziabad but what are the materials which are going to be stored in them? Will the plant be utilised for the whole year or will it remain idle for some part of the year?

The Honourable Shri Jairamdas Doulatram: It is intended at present to preserve seed potatoes but other things also can be kept there. Whether the plant will be used for the whole year or not will depend on whether the growers and customers want to use it for the whole year or not.

Pandit Balkrishna Sharma: Arising out of the fact that an ice factory is an essential part of the cold storage plant, will Government consider the question that it can be made a business proposition if Government undertake to sell ice which is manufactured in these cold storage plants?

The Honourable Shri Jairamdas Doulatram: Government will consider it.

DEMAND FOR MORE TELEPHONE CONNECTIONS IN JUBBULPORE

540. ***Seth Govind Das:** (a) Will the Honourable Minister of Communications be pleased to state whether Government are aware that the population of Jubbulpore has increased by leaps and bounds in recent years and that no increase has been made in telephone connections to the public?

(b) If so, what steps do Government propose to take to meet the ever-increasing demand for such connections?

(c) Do Government propose to consider the installation of an automatic exchange to satisfy the greater need?

The Honourable Mr. Rafi Ahmad Kidwai: (a) and (b). Population of Jubbulpore has probably increased, but no accurate information about the extent of increase is available. The number of telephone connections has not increased but a new telephone switchboard of the latest type is in the process of installation, and additional telephone connections will soon be given.

(c) Automatic equipment are in extremely short supply. The present demand for more telephones can be quickly and efficiently met by the new board which is being installed.

Seth Govind Das: In view of the fact that the Bangalore Factory is going to work very shortly, will this dearth of telephones in various towns be met as soon as that Bangalore factory begins working?

The Honourable Mr. Rafi Ahmad Kidwai: Not as soon as it begins working, but as soon as it begins manufacturing all the equipment required by the telephone exchanges.

Seth Govind Das: By what time does the Honourable Minister think the output of this factory will begin?

The Honourable Mr. Rafi Ahmad Kidwai: By December next.

Shri H. V. Kamath: Is it the policy of Government to see that the increase in the number of telephones keeps pace with the increase in population?

The Honourable Mr. Rafi Ahmad Kidwai: With the increase in demand, not with the increase in population. The questioner has said "population has increased by leaps and bounds", whereas I find that 187 connections already existed and about 70 or more are wanted, which we will be able to supply by the end of this month.

Shri H. V. Kamath: How many telephones were installed in Jubbulpore at the peak of war?

The Honourable Mr. Rafi Ahmad Kidwai: A fresh question will have to be put for that.

Shri Deshbandhu Gupta: Do Government realise that it is no solution of the difficulty to have more telephones so long as the standard of efficiency remains what it is at present?

Mr. Speaker: These are all questions of opinion.

Recruitment to Indian Agricultural Service

541. *Shri V. C. Kesava Rao: (a) Will the Honourable Minister of Agriculture be pleased to state the manner in which recruitment is carried out for the Indian Agricultural Service?

(b) What is the total number of officers in this category and what is the expected annual intake?

The Honourable Shri Jairamdas Doulatram: (a) The Indian Agricultural Service was abolished in accordance with the recommendations of the Lee Commission in 1924 and there has been no recruitment to it since then.

(b) There is only one officer belonging to this service who is to retire. There is no fresh intake.

Prof. N. G. Ranga: How are the Officers needed for this Department recruited? Are they taken from the Agricultural Departments of the different Provinces, or are they chosen here independently?

The Honourable Shri Jairamdas Doulatram: Usually they are recruited through the Public Service Commission and it is open to members from the Provincial Services to apply. In special cases we try to requisition the services of special officers from Provincial Governments also.

Land under Cultivation by Tractors

542. *Shri V. C. Kesava Rao: (a) Will the Honourable Minister of Agriculture be pleased to state the total area of land that has been brought under cultivation by the use of tractors?

(b) What is the expected yield from these areas?

The Honourable Shri Jairamdas Doulatram: (a) and (b). A statement giving the available information is placed on the table. The required information in respect of Bihar is still awaited from the Provincial Government and will be furnished to the House in due course.

Statement

showing the total area of land brought under cultivation by the use of tractors and anticipated yield.

Area brought under cultivation by the Provincial Governments

Province	Area brought under cultivation	Expected yield
Bombay	1,03,800 acres	4,432 Tons
Madras	10,025 acres	1,750 Tons
U.P.	355 acres	118 Tons
West Bengal	200 acres	100 Tons
East Punjab	4,000 acres	1,429 Tons
Assam	2,140 acres	715 Tons
Orissa	275 acres	98 Tons
Total	1,20,795 acres	Total 8,642 Tons

Area brought under cultivation by the Central Tractor Organisation

U.P.	25,800 acres	8,600 Tons
C. P.	8,000 acres	2,667 Tons
Total	33,800 acres	Total 11,267 Tons

NOTE. 1.—The yield varies from region to region depending on the fertility of the soil The Governments of Bombay and Madras are, however, being asked to give reasons for low yield from the land reclaimed by them.

NOTE. 2.—The Central Tractor Organisation is also operating a scheme for mechanical cultivation of 50,000 acres of land left by Muslims in the Matsya Union. The Scheme was put into operation towards the month of July and so far 9643 acres have been cultivated. This area has not been included in the above statement as the land brought under cultivation is not new.

Mr. R. K. Sidhva: What is the total number of tractors imported by the Government of India so far?

The Honourable Shri Jairamdas Doulatram: I could not give the total number of tractors imported so far. We have about 240 tractors working, of which I think about 200 were taken from American Disposals. That is, the number of imported tractors must be very small. Most of them are purchased from American Disposals, put into repair and then used.

Mr. R. K. Sidhva: In what parts of the country are they mostly used?

The Honourable Shri Jairamdas Doulatram: In U.P., C.P. and latterly in the Matsya Union.

Seth Govind Das: Are these tractors distributed among the various Provinces according to the extent of land which is lying barren in those Provinces or is it done on different grounds?

The Honourable Shri Jairamdas Doulatram: The main consideration is which part of India can yield immediate results. If we find that a Provincial Government is ready with the technical staff, financial arrangements and in other ways, then we give preference to those areas. But the main consideration, as I said, is from which part of India we can immediately have results in the matter of food.

Shri V. C. Kesava Rao: May I know whether any of these tractors were allotted to Madras?

The Honourable Shri Jairamdas Doulatram: I do not think that any has been allotted to Madras. But it is not a question of the Central Government allotting the tractors to the Provinces, but it is a question of the Provincial Governments getting ready to use them. As soon as we get approaches from the Provincial Governments, we respond. The Provinces know the state of things and we have circularised this to the Provinces.

Shri T. A. Ramalingam Chettiar: Has not the Madras Government applied for a large number of these tractors?

The Honourable Shri Jairamdas Doulatram: I am not aware.

Shri T. A. Ramalingam Chettiar: Will Government look into this matter, because I have received several complaints about this?

The Honourable Shri Jairamdas Doulatram: I will look into the matter.

Pandit Lakshmi Kanta Maitra: May I know if the Government of India has received any reports that many of these tractors purchased from American Disposals are not very serviceable and practicable, apart from the fact that they consume huge quantities of oil?

The Honourable Shri Jairamdas Doulatram: No. I think they have been fairly successful, looking to the fact that they were old tractors.

Shrimati Renuka Ray: In view of the increasing fragmentation of agricultural holdings in this country and the fact that more than forty per cent. of such holdings are of less than one acre, making it impossible for such scientific apparatus as tractors and other things to be used, does Government contemplate any legislation so that co-operative methods of cultivation and farming be introduced immediately on a comprehensive basis?

The Honourable Shri Jairamdas Doulatram: The main purpose of this tractor organisation is to reclaim waste land, that is land which is not at present under cultivation. Here and there we are asked, as in the case of the Matsya Union and U.P., to do cultivation also. It is not the intention that the tractor should be used for cultivation purposes throughout India in place of cultivation by bullocks.

Shrimati Renuka Ray: Would it not produce better per acre if we had the small holdings of land cultivated together with the help of tractors on a co-operative basis?

Mr. Speaker: I think the honourable member is entering into an argument.

Shri M. Tirumala Rao: Government have said that many tractors require to be fitted with component parts like plough-shears. May I know whether the Government have now fitted them with these component parts?

The Honourable Shri Jairamdas Doulatram: About 200 have been fitted with them.

Shri M. Tirumala Rao: How many more remain to be fitted?

The Honourable Shri Jairamdas Doulatram: I could not give the exact number, but a very small number remains.

Shri T. A. Ramalingam Chettiar: How many bull-dosers are there at present?

The Honourable Shri Jairamdas Doulatram: I think about a dozen.

Shri H. V. Kamath: Is the Honourable Minister in a position to say that the increase in yield by tractor cultivation will be commensurate with the cost and the outlay on tractors?

The Honourable Shri Jairamdas Doulatram: If the Provinces want to reclaim land which is waste, the question of the yield per acre does not arise, because that further cultivation has to be done by animal power. But where Provincial Governments have for any reasons, as in the case of East Punjab or the Matsya Union or portions of U.P., wanted cultivation also to be done by tractors, we have got to do it—because on the whole if bullock power is not available or man power is not available it is much better, even at increased cost, to produce food.

Pandit Lakshmi Kanta Maitra: Has the Government explored the possibility of manufacture of tractors from the ordnance factories under the Defence Department?

The Honourable Shri Jairamdas Doulatram: More than one scheme for the manufacture of tractors is under the consideration of Government.

STRIKE ON ASSAM RAILWAYS

†543. ***Srijut Kuladhar Chaliha:** Will the Honourable Minister of Railways be pleased to state the number of strikes which occurred on Assam Railways from 19th May, 1948 onward?

The Honourable Dr. John Matthai: Six strikes have taken place on the Assam Railway from the 19th May, 1948 up to date.

INADEQUATE SHELTER FOR FOODGRAINS IN RAILWAY GODOWNS

544. ***Shri Damodar Swarup Seth:** Will the Honourable Minister of Railways be pleased to state:

(a) whether the attention of the Government has been drawn to a letter published in the *Statesman*, dated 9th August, 1948 under the caption "Unpardonable waste" regarding inadequate shelter provided by the Railways for stocks of foodgrain;

(b) whether Government are aware that thousands of bags of foodgrains are lying in the rain at the Hissar railway godown emitting a foul smell; and

(c) if the answers to parts (a) and (b) above be in the affirmative whether Government propose to take up the matter immediately with the Railway Department to avoid this waste at a time when the country is faced with acute food shortage?

The Honourable Dr. John Matthai: (a) Yes.

(b) No. The report published in the *Statesman*, dated 9th August, 1948, under the caption 'Unpardonable Waste', seems to be highly exaggerated. Only about 800 bags of gram were brought at their own risk to Hissar Railway station for despatch to a number of stations on the Eastern Punjab Railway. To protect them from rain, the limited number of tarpaulins available were provided by the Railway Administration. But due to inclement weather and heavy rain, when it was noticed that the bags were rotting, the consignors removed all the consignments from the station premises. This is reported to have damaged about thirty tons of gram and the information is that even these were subsequently dried and sold as 'Bhagar' at a slightly reduced price.

(c) Does not arise.

†Answer to this question laid on the table, the questioner being absent.

Prof. N. G. Ranga: For how many weeks were they allowed to be kept there exposed to the elements?

The Honourable Dr. John Matthai: As a matter of fact, as soon as my attention was drawn to this statement in the paper I got the matter examined. In view of the limited covered capacity available at this station I think it was wrong on the part of the station authorities to have accepted for storage all these stocks at consignor's risk. Under ordinary circumstances this damage would not have occurred, but as the House will remember, during this period we were having unusual rainfall. As it happened, however, the amount of damage was very much less than what the newspapers have reported.

Shri K. Santhanam: What is the percentage of stocks offered for transport which can be accommodated in the covered godowns?

The Honourable Dr. John Matthai: It depends on the covered capacity at each station.

Shri K. Santhanam: Has any enquiry been made to find out the overall covering capacity of the entire railway system?

The Honourable Dr. John Matthai: I am prepared to give the honourable member a statement on that subject, but he will appreciate that as the quantum of traffic varies from time to time, a percentage of that kind would not have any validity.

Shri K. Santhanam: He may give the maximum percentage for the maximum traffic offered at any moment

The Honourable Dr. John Matthai: The maximum has no particular significance here because the maximum traffic itself is a moving factor.

Mr Frank Anthony: Sir, approximately how much does Government spend on building of storehouses and storerooms for the protection of foodgrains?

The Honourable Dr. John Matthai: I must have notice of that.

Dr. V. Subramaniam: When foodgrains get damaged in railway godowns owing to negligence, can the owners get compensation for such damages?

The Honourable Dr. John Matthai: It depends on whether it is stored at Railway's risk or at owner's risk.

Shri H. V. Kamath: Will the Honourable Minister be pleased to assure us that this wate which, though exaggerated, is there, is not a part of the world-wide capitalist conspiracy of destroying foodstuffs so as to keep prices soaring and spiralling?

Mr. Speaker: Order, order. That need not be answered.

Prof. N. G. Ranga: Is it not a fact that the Ministry of Agriculture has brought to the notice of the Ministry of Railways several times that there are huge stocks of gram awaiting movement from Hissar District, and yet the railways have not been able to move a large portion of this grain?

The Honourable Dr. John Matthai: No, Sir.

Mr. Frank Anthony: Is it a fact that there have been a lot of questionable transactions in respect of the building of these foodgrain storehouses, and that many of these storehouses built at a considerable expense are not being used?

The Honourable Dr. John Matthai: This is the first time that I have heard this statement.

Shri Deshbandhu Gupta: May I know whether there have been any more instances of similar waste, that have come to the notice of Government?

The Honourable Dr. John Matthai: I do not accept the statement that there has been anything like the waste reported in newspapers.

OVER-BRIDGE AT RAILWAY LEVEL-CROSSING IN AMRAOTI

545. *Dr. P. S. Deshmukh: (a) Will the Honourable Minister of Railways be pleased to state whether Government have received any representations regarding the want of an over-bridge at the railway level-crossing in the town of Amraoti?

(b) Are Government aware that this is causing inconvenience to the residents of Amraoti and the surrounding area?

(c) Do Government propose to take the matter into their consideration?

The Honourable Dr. John Matthai: (a) A representation was received in February, 1948, from the Town Municipal Committee, Amraoti, asking for an over-bridge to be provided in place of the present level-crossing in Amraoti Yard.

(b) The Government are aware of the demand of the residents of Amraoti for an over-bridge, but consider that at present there is not sufficient justification for replacement of the level-crossing by an over-bridge.

(c) In view of the reply to part (b) this question does not arise.

Dr. P. S. Deshmukh: What is the criterion of "justification", Sir? Will it be possible for the Honourable Minister to define?

The Honourable Dr. John Matthai: The general principle on which we are proceeding in the matter of fresh railway construction of any kind is that unless there is a very urgent case, in view of the present position regarding finance and materials, we ought to postpone these projects. In this particular case the investigation that we made disclosed two facts. First, that this level-crossing is a level-crossing of reasonable width, about thirty feet; in the second place, the frequency of the trains passing this level-crossing is not such as to necessitate the replacement of the level-crossing by an overbridge.

Dr. P. S. Deshmukh: What is the maximum number of trains that cross any particular level-crossing all over India? May I suggest that this level-crossing has the maximum number of trains?

Mr. Speaker: Order, order. I am afraid that question cannot be allowed.

RESTORATION OF DARWHA DIGRAS RAILWAY LINE IN CENTRAL PROVINCES

546. *Dr. P. S. Deshmukh: Will the Honourable Minister of Railways be pleased to state what steps Government propose to take for the restoration of the dismantled Railway line between Darwha and Digras in the Central Provinces?

The Honourable Dr. John Matthai: The question of restoration of the dismantled line between Darwha and Pusad in the Central Provinces, was considered by the Central Board of Transport at their 12th meeting held on 29th July, 1948, and it was decided that pending completion of the survey of Khandwa-Hingoli line, consideration of this project should be postponed.

RAILWAY LINE FROM KHANDWA TO PARBHANI (HYDERABAD) *via* AKOLA

547. *Dr. P. S. Deshmukh: (a) Will the Honourable Minister of Railways be pleased to state what action has been taken in regard to the project of joining Khandwa *via* Akola with Parbhani in the Hyderabad State by means of a Railway line?

(b) When is the work going to be started?

(c) What would be the allotment on this project during the next financial year?

The Honourable Dr. John Matthai: (a) The Engineering Survey Report for a line joining Khandwa with Hingoli in Hyderabad State *via* Akola, is under compilation.

(b) At this stage, Government are not in a position to state if and when the line will be constructed.

(c) It is not intended to make any Budget provision for this project during the next financial year.

Shri H. V. Kamath: As long as the Hyderabad problem is not settled, does Government think it desirable to undertake this project at all?

The Honourable Dr. John Matthai: Of course that is one of the factors that have to be considered in this matter, but as far as this line is concerned it is only a very small section of it, I believe, that falls within Hyderabad territory.

Dr. P. S. Deshmukh: Is it not a fact that undertaking this project will facilitate the solution of the Hyderabad issue?

The Honourable Dr. John Matthai: I have no opinion on the subject.

AMRAOTI NARKHED PROJECT ON G.I.P. RAILWAY

548. *Dr. P. S. Deshmukh: (a) Will the Honourable Minister of Railways be pleased to state what decision Government have taken in regard to Amraoti-Narkhed project on the Great Indian Peninsula Railway?

(b) Are Government aware that since the project was first considered, there have been tremendous developments in this area especially in respect of fruit growing and gardening?

(c) Are Government aware that there is heavy traffic between Amraoti and various places leading up to Narkhed?

(d) Do Government propose to take up this project immediately and complete it early?

The Honourable Dr. John Matthai: (a) In view of the limited resources available, the Amraoti-Narkhed Project has, for the present, been dropped. It will, however, be reconsidered by the Central Board of Transport along with other Projects in the Central Provinces, when a final decision will be taken.

(b) From the Traffic Survey Report, it appears that more and more land is being brought under fruit and ground-nut crops, as these are found to be at present more paying than cotton.

(c) The Traffic Survey Report reveals that the number of buses plying in the area is 30 and bullock carts form the Principal means of transport for the carriage of goods, although a very limited volume of traffic is also carried by motor transport.

(d) The present resources and financial considerations do not permit of the Project being taken in hand in the near future.

CATTLE SLAUGHTERED BEFORE AND AFTER 15TH AUGUST, 1947

549. *Shri Ram Sahai: (a) Will the Honourable Mmister of Agriculture be pleased to state the number of cows, bullocks and calves slaughtered in India year-wise during the three years ended 15th August, 1947 and the places where they were slaughtered?

(b) What is the number of these animals slaughtered within six months from 15th August, 1947?

The Honourable Shri Jairamdas Doulatram: (a) and (b). No reliable data are available.

Seth Govind Das: Is it not a fact that though in various Provinces there are rules that under a certain age no animals should be slaughtered, still the indiscriminate slaughter is going on practically everywhere?

The Honourable Shri Jairamdas Doulatram: This whole question of the preservation of cattle has been examined by the Cattle Preservation Committee. Its recommendations are under consideration and when Government takes decisions in the light of those recommendations, all steps will be taken to prevent what is now happening?

Seth Govind Das: May I take it that the Government of India is contemplating to bring a comprehensive legislation in this respect, as soon as the Report of that Committee is out, in the next Session?

The Honourable Shri Jairamdas Doulatram: I do not know whether legislation will be ready by the next Session, but as soon as the Report is submitted—it has not yet been submitted—it would be considered at the earliest possible date and as soon as it is feasible legislation would be introduced.

Mr. Frank Anthony: Is it not a fact, Sir, that half the cattle population of India is quite useless both from the point of view of draught and milk purposes?

The Honourable Shri Jairamdas Doulatram: I am not sure about the percentage, but it is a fact that a substantial proportion is not fully useful.

Maulana Hasrat Mohani: Are the Government aware that in many of the Municipal Boards, chiefly in U.P., they have not only prohibited cow slaughter but they have also prohibited the slaughter of old and useless oxen and buffaloes also which leads to the closing down of the slaughter houses at once? If that is so, may I ask the Honourable Minister whether it will not be hard on the Muslim masses and whether it will not amount to compelling them to become vegetarians?

Mr. Speaker: Order, order. It is a matter of opinion.

श्री राम सहाय: क्या माननीय मिनिस्टर साहब यह बताने की कृपा करेंगे कि क्या कमेटी की रिपोर्ट में यह बात कही गयी है कि गोवध कानूनन बन्द किया जाय ?

Shri Ram Sahai: Will the Honourable Minister please state whether the Committee has recommended that cow-slaughter be stopped by legislation?

आनरेबिल श्री जयरामदास दौलतराम: वह रिपोर्ट तो अभी मेरे पास पहुंची नहीं है । जहां तक मुझे इल्म है वह रिपोर्ट अभी तक फाइनली (finally) पास नहीं हुई है । मीटिंग (meeting) हुई है लेकिन रिपोर्ट बन रही है ।

The Honourable Shri Jairamdas Doulatram: The Report has not yet reached me. So far as I am aware, it has not yet been finalised. The Committee has met, but the report is under preparation.

Shri B. P. Jhunjhunwala: Arising out of the answer that a substantial portion of the animals are useless, may I know what kinds of those animals are useless? Are they useless because of old age, or even young calves and others also are useless? If so, what is the cause?

The Honourable Shri Jairamdas Doulatram: I would say largely because they are under-fed. But the fact is that in the drier parts of our country, say the North and the North-West, there are facilities for proper feeding of cattle and so cattle in those regions are better fed. Those in the heavily rained areas are ill-fed; in those areas there is the difficulty of having efficient cattle.

The whole question has been gone into and a few days ago I had informed the House that a five-year plan has been prepared. That plan has been placed before the Provincial Governments; we are trying to speed up its implementation and as soon as it gets implemented we hope to see some results.

Shri B. P. Jhunjhunwala: What is the condition of cattle in the heavily-rained areas?

The Honourable Shri Jairamdas Doulatram: Less efficient because of less food.

Shri B. P. Jhunjhunwala: In heavily rained area also?

The Honourable Shri Jairamdas Doulatram: Yes.

Protection of Cattle for Agriculture

650. ***Shri Ram Sahai:** (a) Will the Honourable Minister of Agriculture be pleased to state the particulars of the schemes for the protection of cattle that can be used for agricultural purposes, which Government have under consideration in different parts of India?

(b) Are Government aware that cow slaughter has brought about a considerable fall in the number of agricultural bullocks?

(c) Are Government aware that the farmers cannot properly plough their lands for want of bullocks?

(d) What steps do Government propose to take in the matter?

The Honourable Shri Jairamdas Doulatram: (a) The Governments of Bombay, C.P. and Berar, Madras and Orissa and the Chief Commissioner of Ajmer-Merwara have banned the slaughter of cattle between three to ten years of age that can be used for work. The Government of India have also sanctioned certain schemes received from the Governments of Bengal, Bombay and the Chief Commissioners of Coorg and Ajmer-Merwara for the immunization against diseases of cattle, including cattle used for agricultural purposes.

(b) and (c). There is deficiency of bullocks fit for agricultural operations in some parts of the country due to many causes.

(d) The Government have appointed an expert committee of officials and non-officials to consider the question of the preservation of the cattle wealth of the country and for promoting its development in all its aspects and to recommend a comprehensive plan of action for the purpose. The Committee has concluded its deliberations and its report is under preparation.

Babu Ramnarayan Singh: The Honourable Minister stated that dearth of bullocks is due to several causes. May I know what are those causes?

The Honourable Shri Jairamdas Doulatram: One reason is that on account of inadequacy of railway transport a part of the traffic has gone over to bullock carts and bullocks are being diverted for the purpose of carrying freight where the prices and wages are high.

Babu Ramnarayan Singh: Is it not a fact that many of the bullocks are also slaughtered in the slaughter houses?

The Honourable Shri Jairamdas Doulatram: I do not know whether many useful bullocks are slaughtered. I think largely only those which are not of much use are slaughtered.

Seth Govind Das: The Honourable Minister stated that in many provinces there has been legislation prohibiting the slaughter of cattle under a certain are not being put into force and in spite of that indiscriminate slaughter is going on in various provinces under the age which has been fixed.

The Honourable Shri Jairamdas Doulatram: Government will make enquiries about it.

Shri H. V. Kamath: How many bullocks are there per "working plough", as it is called, in our country?

The Honourable Shri Jairamdas Doulatram: I cannot give the exact figure.

Mr. Frank Anthony: Will Government enunciate a frank policy in regard to cow slaughter, and if it offends the religious susceptibilities of a particular community they should say so and the other communities should respect that, or will they give instructions to the Provincial Governments that they should graduate their plans with regard to cow slaughter?

The Honourable Shri Jairamdas Doulatram: The whole question was discussed and examined by the Committee which has been appointed. As soon as its report is received all these matters will be carefully gone into.

Prof. N. G. Ranga: What are the beautiful communities which gloat over their eating of beef?

Mr. Speaker: Order, order.

STATUS OF SUB-POST OFFICES OF STATES MERGED IN ORISSA

551. *Shri Yudhishthir Mishra: Will the Honourable Minister of Communications be pleased to state:

(a) the total number of Head and Selection grade Sub-Post Offices in the Orissa Postal Circle;

(b) the total number of Head and Selection grade Sub-Post Offices in the Orissa States which recently merged with the province of Orissa and are now included in the Orissa Postal Circle; and

(c) whether Government, in view of the changed circumstances and the increase in work, propose to consider the advisability of raising the status of Sub-Post Offices in the integrated Orissa States, which have now been formed into district units, to that of Head Post Offices and converting ordinary Post Offices into combined Post and Telegraph Offices?

The Honourable Mr. Rafi Ahmad Kidwai: (a) Five Head Offices and six Selection Grade Sub-offices.

(b) Nil.

(c) There is no justification for the present for raising the status of any sub-office to that of Head office. The question of converting some post offices into combined offices is under examination.

Shri Yudhishthir Mishra: Are the Government aware that the sub-post offices in the newly created District Units in the States are not able to cope with the work?

The Honourable Mr. Rafi Ahmad Kidwai: I have not received any such complaint. None of the States had their own postal arrangements before, and our own arrangements which were there are being continued.

Shri Yudhishthir Mishra: Has the Government received any representation from these States that the sub-post offices are not able to cope with the work?

The Honourable Mr. Rafi Ahmad Kidwai: I do not remember having received any, but I will look into it.

Shri Yudhishthir Mishra: Will the Honourable Minister enquire from the Additional Post-Master General of Orissa whether he has received any such representations from the States?

The Honourable Mr. Rafi Ahmad Kidwai: I said I will look into it.

SUPERINTENDENTS OF POST OFFICES IN BIHAR AND ORISSA

552. *Shri Yudhishthir Mishra: Will the Honourable Minister of Communications be pleased to state the total number of posts in the cadre of Superintendent of Post Offices in each Postal Circle in Bihar and Orissa?

The Honourable Mr. Rafi Ahmad Kidwai: Thirteen in Bihar Circle and five in Orissa.

SEPARATION OF ORISSA AND BIHAR POSTAL CIRCLE

553. *Shri Yudhishthir Mishra: Will the Honourable Minister of Communications be pleased to state whether any final decision has been taken in regard to the complete separation of the Orissa Postal Circle as an independent administrative unit from the Bihar Postal Circle and if the reply be in the affirmative, when the decision is likely to be given effect to?

The Honourable Mr. Rafi Ahmad Kidwai: Orissa Circle functions as an independent unit in regard to Postal and R.M.S. matters. On the recommendation of the Government of Orissa it has been decided that a completely independent Circle for Orissa in respect of telegraphs and telephones should not be formed until the tele-communications system in the Province is developed.

Shri Yudhishthir Mishra: What are the reasons why there should not be a separate independent unit?

The Honourable Mr. Rafi Ahmad Kidwai: Sometime ago I stated that the matter was under consideration. When Orissa Government itself has recommended that they do not demand an independent circle, as the telephone and telegraph communication has not developed there sufficiently to justify an independent circle.

Shri K. Santhanam: May I know whether as in the case of the Railways whenever a province wants an independent circle, it will be asked to foot the bill also?

The Honourable Mr. Rafi Ahmad Kidwai: No. If the telegraph and telephone communication develops sufficiently, then that will by itself justify an independent circle.

Shri Yudhishthir Mishra: Are Government aware that there is demand from the people that it should form an independent circle?

The Honourable Mr. Rafi Ahmad Kidwai: I said there was some demand and the question was under consideration. Then the Orissa Government itself realised that the existing telegraph and telephone communications do not justify an independent circle and they made that recommendation.

Shri B. Das: Does the Honourable Minister recollect that in the last session of the Assembly he promised that the telegraph Department in Orissa would be placed under an independent Orissa circle and is he going to or has already taken it up with the Additional Post-Master General, Orissa?

The Honourable Mr. Rafi Ahmad Kidwai: But I have just stated that because the Orissa Government itself recommended that for the present we should not proceed with that matter and we have accepted their advice.

Shri B. Das: Do I take it that the Orissa Government does not want an independent circle or does the Orissa Government not want the placing of the Telegraph Department under the Orissa Postal Department? What is their view?

The Honourable Mr. Rafi Ahmad Kidwai: It is their view that the work at present is being carried on more to their satisfaction than perhaps it would otherwise be.

SHORTAGE OF FORMS ETC. IN POST OFFICES IN ORISSA

564. *Shri Yudhishthir Mishra: Will the Honourable Minister of Communications be pleased to state:

(a) whether Government are aware that sending of money orders, registered letters, parcels and insured articles from Post Offices in the Orissa Postal Circle had to be suspended for want of receipt books, forms etc., for the last twelve months causing much hardship and inconvenience to the public; and

(b) if the reply to part (a) above be in the affirmative, whether Government propose to conduct an enquiry to find out the reasons and conditions that have led to this state of affairs and to take early action to improve matters?

The Honourable Mr. Rafi Ahmad Kidwai: (a) and (b). I am very very thankful to the honourable member for tabling this question. I had received a few complaints from Rajputana and Madras, and Director-General immediately arranged the supply of cards and other forms, etc. I had received no complaints from Orissa. For the first time the abnormal stortages in Orissa of necessary forms came to my notice last evening when the draft reply and the accompanying note reached me. I am sorry for the inconvenience the shortages must have caused to the people of Orissa and I offer apology on behalf of the Department.

I am informed satisfactory arrangements have been made and most of the forms are now in supply. The Director-General is deputing a senior officer to make an enquiry "to find out the reasons and conditions that have led to this state of affairs."

EXPERIMENTAL POST OFFICES OPENED IN ORISSA UNDER POST-WAR DEVELOPMENT SCHEME

555. *Shri Yudhishthir Mishra: Will the Honourable Minister of Communications be pleased to state:

(a) the number of experimental post offices opened in the Orissa Postal Circle under the Post-War Development Scheme during the year 1947-48;

(b) the number of such offices so far made permanent and the number so far closed down;

(c) the amount of non-returnable contribution for opening new post offices realised from the public;

(d) the number of experimental post offices opened in the integrated Orissa States during the years 1946-47 and 1947-48;

(e) the amount of non-returnable contribution realised from the public for opening new post offices in those States in the abovementioned years?

The Honourable Mr. Rafi Ahmad Kidwai: (a) to (e). A statement furnishing the required information is laid on the table of the House.

Statement

showing the number of experimental post offices opened in the Orissa Postal Circle under the Post-War Development Scheme and other relevant information.

(a) Number of experimental post offices opened during the year 1947-48.	129
(b) Number so far made permanent out of (a) above.	30
Number so far closed down out of (a) above.	Nil
(c) Amount of non-returnable contribution received from the public in respect of those among (a) above, which worked at a loss exceeding the permissible annual limits of loss.	Rs. 2,697/13/-
(This excludes Rs. 4,218/12/- paid by the Government of Madras as the first year's cost of maintenance of an unremunerative sub post office opened at MACHKUND in an unpopulated locality in connection with Madras Hydro-Electric Scheme).	
(d) Number of experimental post offices opened in the integrated Orissa States during the years 1946-47 (3) and 1947-48 (15)	18
(e) Amount of non-returnable contribution received from the public for opening offices shown in the preceding item.	
In 1946-47	Nil
In 1947-48	Rs.1,377/1/-
(This relates to three offices opened at a working deficit exceeding the permissible limit).	

Shri Yudhishthir Mishra: What is the basis on which these experimental post offices have been started?

The Honourable Mr. Rafi Ahmad Kidwai: As stated at the time of the Budget it is our plan to open post offices in every town or village with an average population of 2,000 and over. Also where it is particularly demanded on account of extra traffic and other things, post offices are opened. That is the basis and sometimes Provincial Governments recommend the opening of special post offices and those recommendations are also fulfilled.

Prof. N. G. Ranga: How many new Post offices are the Government able to open in Orissa every year after the announcement of the policy?

The Honourable Mr. Rafi Ahmad Kidwai: Sorry, I have no idea.

Shri Yudhishthir Mishra: Once the post offices have been started, do the Government propose to close them down for any reason?

Mr. Speaker: I am afraid that does not arise.

Shri Mihir Lal Chattopadhyay: Arising out of part (c), may I know whether any contributions are taken from the public for the opening of post offices?

The Honourable Mr. Rafi Ahmad Kidwai: Sometimes, it is done.

Shri Mihir Lal Chattopadhyay: Is that the practice followed for all the provinces?

The Honourable Mr. Rafi Ahmad Kidwai: Yes, that is followed in all the provinces.

Babu Ramnarayan Singh: Along with the consideration of population, do the Government consider the distance between two post offices?

The Honourable Mr. Rafi Ahmad Kidwai: Yes; that is also taken into consideration.

RESTORATION OF PANIPAT-ROHTAK RAILWAY LINE

556. *Ch. Ranbir Singh: (a) Will the Honourable Minister of Railways be pleased to state whether Government are aware that the railway line from Panipat to Rohtak was dismantled in 1941 due to war exigency?

(b) Are Government aware that there is no pucca road, which connects Panipat and Rohtak *via* Gohana?

(c) Are Government aware that the grain markets of Gohana and Mudlana on that line have become practically non-existent for want of transport facilities?

(d) Are Government aware that lakhs of Kisans belonging to villages lying near about this railway line are forced to sell their produce at a very low price for want of road or rail facilities?

(e) If so, do Government propose to restore the railway line from Panipat to Rohtak *via* Gohana and if not, why not?

The Honourable Dr. John Matthai: (a) Yes.

(b) There is a metalled road between Rohtak and Gohana and a non-metalled road between Gohana and Panipat; the whole length being classified as a Provincial highway.

(c) As far as the Government are aware, the mandis at Gohana and Mudlana have continued to develop since the railway line was dismantled.

(d) The Government have no information on this point.

(e) The line had been continuously running at a loss since its construction. The question of its restoration was considered by the Central Board of Transport at its 12th meeting held on 29th July 1948, and it was decided that the project required further detailed examination in the light of partition and the industrial and other developments in prospect. It is, therefore, proposed to carry out a fresh traffic survey. The question of restoration of the line will be finally decided after the traffic survey has been carried out.

Prof. N. G. Ranga: Are the Railways thinking of running any lorry service or anything like that in the meanwhile in order to facilitate the movement of agricultural produce to the markets?

The Honourable Dr. John Matthai: As a matter of fact, this question of road transport is at present very much under the consideration of the provincial Governments.

Prof. N. G. Ranga: Has any effort been made by the Central Government in order to see, wherever they had to dismantle these local railway services, that alternative road lorry service is provided in order to facilitate the movement of goods?

The Honourable Dr. John Matthai: One of the main reasons why we are not accepting proposals for the restoration of dismantled lines is that since the dismantling took place, there has been a considerable road development and the question of providing motor transport for these roads which have come into existence is one which primarily concerns the provincial Governments. The provincial Governments have been extremely active in this matter.

Dr. V. Subramaniam: What is the general policy regarding the dismantled lines: Are the Government going to reconstruct them or find other alternative transport?

The Honourable Dr. John Matthai: There is no general policy. Each question is considered on its merits

SHIFTING OF ZOOLOGICAL SURVEY OF INDIA FROM BANARAS TO CALCUTTA

557. *Dr. Raghu Vira: Will the Honourable Minister of Agriculture be pleased to state:

(a) whether it is a fact that the Department of Zoological Survey of India was shifted from Calcutta to Banaras in 1942, and that some valuable specimens were badly shaken and damaged during the transit;

(b) whether it is a fact that in 1047, the Government of India, on the recommendation of Lt.-Col. Sewell and other experts decided to locate the Department at Delhi;

(c) whether it is a fact that on account of the disturbances, this decision was changed by the Cabinet and Allahabad was selected as the most suitable place, being centrally situated and out of the danger zone in case of war;

(d) whether it is a fact that it has now been decided to shift the department to Calcutta and if so, on what grounds;

(e) whether it is a fact that the building in which the department is situated at present in Banaras is rented at Rs. 200 per month and that the building to which it is being shifted at Calcutta is rented at Rs. 3,000 per month and that it is proposed to shift it to a new building after a period of two years; and

(f) how many research institutes and departments of the Government of India are situated at Calcutta?

The Honourable Shri Jairamdas Doulatram: (a) Yes. The damage was negligible.

(b) Yes.

(c) No. It was on account of the non-availability of a suitable site near Delhi and the possibility of securing a suitable building at Allahabad that the Ministry of Agriculture in October 1947 decided to locate the Survey there.

(d) Yes. Agriculture Ministry's decision to retransfer the headquarters of the Zoological Survey of India to Calcutta was based on the following considerations:

(i) That the building offered at Allahabad was neither commodious enough nor suitable for locating a Survey Department. In addition, there was very little room for further expansion.

(ii) That, as a result of strong representations by the Royal Asiatic Society of Bengal and the Trustees of the Indian Museum, who are the legal owners of the major part of the collections and library of the Survey, the Government of India had to reconsider their earlier decision. The Survey and its predecessory, the Natural History Section of the Indian Museum, had been housed in the

Indian Museum, Calcutta, since 1878. The two bodies referred to above were strongly opposed to the permanent removal of those parts of the library, collections, etc., of the Survey, which had been loaned to the Zoological Survey of India on its establishment in 1916. As it would be impossible to carry on the work of the Survey without these collections and library, and as the Survey has to maintain the Natural History galleries of the Indian Museum, Calcutta, it was decided to retransfer the Survey to Calcutta.

(e) The Zoological Survey of India was temporarily located in 1942 in a building known as the "Kaiser Castle" at Banaras Cantt. This building, which belongs to His Excellency Sir Kaiser Shumsher Jang Bahadur Rana of Nepal, was placed at the disposal of the Government of India for housing the Zoological Survey of India, free of rent, for the duration of the War. The owner wanted the Kaiser Castle back after the war but, as a result of our special request, he had agreed to allow the Survey to continue to occupy the building upto 12th February 1949. In May 1947, at the instance of the new Director of the Zoological Survey of India, a portion of Clark's Hotel Annexe near Kaiser Castle was taken on a monthly rent of Rs. 225 p.m., as the floor space in the Kaiser Castle was not sufficient to meet the requirements of the Survey Department.

The Jabakusam House at Calcutta had been requisitioned during the War by the Central Public Works Department on a rental of Rs. 3,000 p.m. for locating the Imperial Library. This building has been allotted to the Zoological Survey of India for a period of two years, during which it is hoped that the Survey's fire-proof buildings within the compound of the Indian Museum, will be constructed.

(f) Necessary information is being collected and will be placed on the table of the House.

Shri H. V. Kamath: With reference to answer to part (a) of the question, did the Honourable Minister say that the damage was negligible or nil?

The Honourable Shri Jairamdas Doulatram: Negligible.

Shri H. V. Kamath: In view of the fact that the use of the word 'negligible' implies that there was some damage, may I know what the damage was?

The Honourable Shri Jairamdas Doulatram: There was some damage. It cannot be assessed in quantity. A very large number of the types and specimens of zoological interest had to be brought, and in the process of bringing these thousands of specimens, a few were damaged.

Shri H. V. Kamath: Only insects were damaged?

The Honourable Shri Jairamdas Doulatram: As this was a zoological collection, consisting of thousands of insects and in bringing the collection, a certain amount of damage was caused.

Dr. Raghu Vira: May I know that in the process of transferring the Department, the collections and the library from Banaras to Calcutta, it will take about six months for the entire staff, and that research work during this period is stopped?

The Honourable Shri Jairamdas Doulatram: During transfer from one place to another, surely there will be some dislocation of work.

Seth Govind Das: In view of the fact that it has been announced by the Government of India that their policy is to keep these different institutions of all India importance in different places, why should now this Zoological Survey of India be retransferred to Calcutta, when Allahabad is in the centre of the country and when it had already been brought this side?

The Honourable Shri Jairamdas Doulatram: I have already explained this in my lengthy reply. The collections do not belong to the Government of India. They belong to the Asiatic Society of Bengal. They had been loaned to us. They want these collections back. We cannot insist on keeping them, here.

Mr. Speaker: The question hour is over.

(b) WRITTEN ANSWERS

REPORT OF RAILWAY GRAINSHOPS ENQUIRY COMMITTEE

558. *Shri O. V. Alagesan: (a) Will the Honourable Minister of Railways be pleased to state whether the Railway Grainshops Enquiry Committee appointed during the last Budget Session of the Assembly has submitted its report and if so, when?

(b) Has the report been published?

(c) Have Government taken any action on the recommendations of the Committee?

The Honourable Dr. John Matthai: (a) Yes. The Report was received in June, 1948.

(b) and (c). I would refer the honourable member to the replies to parts (b) and (c) of Mr. R. K. Sidhva's starred question No. 419 given on 24th August, 1948.

HOUSE TAX ON RAILWAY BUILDINGS WITHIN AJMER MUNICIPAL LIMITS

559. *Pandit Mukut Bihari Lal Bhargava: (a) Will the Honourable Minister of Railways be pleased to state whether the Government of India have received any proposals from the Ajmer Municipal Committee for imposition of house-tax on Railway buildings situated within its limits?

(b) If so, when were such proposals received and what decision, if any, has been taken thereon?

(c) Has the same been communicated to the Ajmer Municipal Committee?

(d) If no decision has been arrived at, by which time are Government likely to take a decision in the matter?

The Honourable Dr. John Matthai: (a) Yes.

(b) In October, 1946. No decision has yet been taken.

(c) Does not arise.

(d) A decision is likely to be taken in the near future.

OCTROI ON GOODS IMPORTED BY B. B. & C. I. RAILWAY INTO AJMER MUNICIPAL LIMITS

560. *Pandit Mukut Bihari Lal Bhargava: (a) will the Honourable Minister of Railways be pleased to state whether Government are aware that the Ajmer Municipal Committee claims a right to levy octroi duty on all goods imported by the B.B. and C.I. Railway into the municipal limits of Ajmer?

(b) If so, since when is such a claim being made and what decision if any, have Government taken in the matter?

The Honourable Dr. John Matthai: (a) No. The B.B and C.I Railway have been paying octroi on goods brought into Ajmer Municipal limits since March, 1943 for the sole purpose of sale to Railway employees through Railway Grainshops or Railway Co-operative stores.

(b) Does not arise.

NATIONALISATION OF MOTOR TRANSPORT SERVICES IN AJMER MERWARA

561. *Pandit Mukut Bihari Lal Bhargava: (a) Will the Honourable Minister of Transport be pleased to state whether the Government of India have prepared a scheme for the nationalisation of motor transport services in the Province of Ajmer-Merwara?

(b) If so, do Government propose to place a copy of the scheme on the table of the House?

(c) What time are Government likely to take for the implementation of the said scheme?

(d) Do Government propose to bring in any legislation for the nationalization of these services?

The Honourable Dr. John Matthai: (a) No Scheme for the nationalisation of motor transport services in Ajmer-Merwara has yet been prepared.

(b) and (c). Do not arise.

(d) A scheme for the reorganisation of motor transport services is being prepared by the Chief Commissioner, Ajmer-Merwara, and if, on its finalisation it is found necessary, steps will be taken to introduce fresh legislation.

DELAY IN DELIVERY OF LETTERS IN ASSAM

562. *Srijut Kuladhar Chaliha: (a) Will the Honourable Minister of Communications be pleased to state the reason for the delay in receiving letters despatched from Calcutta, Delhi and other places in Assam?

(b) What is the number of days which a letter takes to reach Jorhat, Dibrugarh and Gauhati from Calcutta?

The Honourable Mr. Rafi Ahmad Kidwai: (a) As far as Government is aware there is no delay in the transmission by post of letters for Assam from other parts of India. As a matter of fact, they are given air transmission between Calcutta to Gauhati irrespective of whether the air surcharge is paid or not, as a very special case. This was done with a view to cut out the delays that would have occurred as a result of the partition. From Gauhati they are sent onward by the usual trains.

(b) Gauhati one day, Jorhat three days and Dibrugarh in one day on the days the Calcutta-Gauhati air service operates up to Mohanbari, otherwise in three days.

DAILY AIR MAIL SERVICES TO JORHAT, DIBRUGARH AND TEZPUR

563. *Srijut Kuladhar Chaliha: Will the Honourable Minister of Communications be pleased to state whether Government propose to make arrangements for daily air mail services to Jorhat, Dibrugarh and Tezpur as there is serious delay in receiving letters in Upper Assam?

The Honourable Mr. Rafi Ahmad Kidwai: Yes, as soon as scheduled air services start functioning to Jorhat, Dibrugarh and Tezpur.

SHIFTING OF ASSAM RAILWAY HEADQUARTERS

564. *Srijut Kuladhar Chaliha: (a) Will the Honourable Minister of Railways be pleased to state whether the Headquarters of Assam Railways will be shifted to Assam?

(b) Is a part of the staff still located in Calcutta? If so, why?

The Honourable Dr. John Matthai: (a) A part of the headquarters of the Assam Railway is already located in Pandu which is in Assam. The entire headquarters will be shifted to Pandu as soon as the necessary office buildings and staff quarters have been constructed.

(b) Yes. Some offices are still located in Calcutta partly on account of want of accommodation at Pandu and partly, as in the case of the Stores Department for facility of work in the transitional period.

Fair Price to Cane Growers and Harassment by Managers of Rawalgaon Sugar Factory

585. *Dr. P. S. Deshmukh: (a) Will the Honourable Minister of Food be pleased to state whether Government have received any complaint against the managers of the Rawalgaon Sugar Factory in Bombay Presidency?

(b) Are Government aware that the managers acted in a high-handed manner and harassed the sugar-cane growers because they asked for proper price for their cane?

(c) Do Government propose to take steps to assure that every agriculturist who sold his cane to the factory, gets not less than Rs. 54/4/- per ton?

(d) Are Government taking any steps to see that such a situation does not recur?

The Honourable Shri Jairamdas Doulatram: (a) and (b). A complaint was received that the management of this factory was not purchasing cane from growers at an adequate price.

(c) and (d). Under an agreement executed between the Government of Bombay and sugar factories in the Deccan, provision was made that the factories should purchase cane from Bagaitdars in the factory areas at Rs. 54/4/- per ton. This provision did not however apply to cultivators in non-factory areas. The question of fixation of the price of cane sold to sugar factories is to be determined by the Provincial Government, which will be approached to take such steps as they consider feasible to protect the interests of cultivators in non-factory areas.

Opening of New Post Offices in Mysore and other places

586. *Shri S. V. Krishnamurthy Rao: Will the Honourable Minister of Communications be pleased to state:

(a) the number of Post Offices which Government (i) have opened, and (ii) propose to open, during the current year in the different provinces and States of the Indian Union, in pursuance of the assurance given by the Honourable Minister during the last session of the Assembly that there will be one Post Office for every village with a population of 500;

(b) the number of Post Offices for the opening of which representations were received from the Mysore State; and

(c) the number opened?

The Honourable Mr. Rafi Ahmad Kidwai: (a) In regard to the first part of the question, a statement furnishing the information is laid on the table of the House. As regards the latter part of the question, the honourable member's attention is invited to the reply given by me to Starred Question No. 1005, on the 29th March, 1948, as to the basis on which new post offices are being opened in rural areas. There was no assurance that there will be one post office for every village of a population of 500 or more, though such villages do have new post offices whenever justified.

(b) and (c). The number of post offices for the opening of which representations were received from the Mysore State was sixty-five and the number opened was sixty-eight.

Statement

showing the number of post offices which (i) have been opened and (ii) are proposed to be opened during the year 1948-49 in the different Provinces and States of the Indian Union.

Name of Postal Circle	Post Offices open in the		Post Offices further proposed to be opened in the	
	Provinces	States	Provinces	States
Assam	87	5	100	20
Bengal	22	1	51	3
Bihar	52	...	27	...
Bombay	28	6	57	17
Central	18	15	91	129
Delhi	5	...	34	...
East Punjab	18	6	125	18
Madras	169	31	426	112
Orissa	18	5	60	25
United Provinces	50	...	240	10
Total	417	69	1,460	334

CONSTRUCTION OF AERODROME AT HUBLI

567. *Shri S. V. Krishnamurthy Rao: Will the Honourable Minister of Communications be pleased to state:

(a) whether Government are aware that there is no aerodrome anywhere in between Poona and Bangalore;

(b) whether there is any proposal to have an aerodrome in Hubli, which is about the centre of Union Karnatak territory; and

(c) whether in view of its importance, Government propose to consider the construction of an aerodrome at Hubli?

The Honourable Mr. Rafi Ahmad Kidwai: (a) There is an aerodrome at Belgaum (Sambre) on the Bombay-Bangalore route which is being brought into use for civil aviation purposes.

(b) and (c). The plans for the development of Civil Aviation in India include the construction of an aerodrome at Hubli. The work is however low down in the priority list of new aerodromes and it is unlikely that it will be taken up until after 1950.

CONFERENCE ON TROPICAL AND SUB-TROPICAL SOILS AT ROTHANSTEAD, U. K.

568. *Shri Damodar Swarup Seth: Will the Honourable Minister of Agriculture be pleased to state:

(a) whether Government have given consideration to the decisions taken at the Conference held at Rothanstead, United Kingdom, on tropical and sub-tropical soils to the effect that (i) soil morphology and surface-geology is of greater importance than consideration of soil genesis alone and (ii) a central committee for each country to coordinate soil work and to establish contact with similar Central Committees in other countries, be established; and

(b) whether Government propose to take steps to implement the decisions at an early date?

The Honourable Shri Jairamdas Doulatram: (a) and (b). The recommendations of the Indian Delegation in regard to the decisions of the recent Tropical and Sub-Tropical Soils Conference held in U.K. are under examination and suitable action will be taken at an early date.

REMOVAL OF FILES CONTAINING VACCINES FORMULAE FROM INDIAN VETERINARY INSTITUTE, IZATNAGAR TO PAKISTAN

569. *Shri Satish Chandra: (a) Will the Honourable Minister of Agriculture be pleased to state whether it is a fact that certain files containing important formulae for the manufacture of vaccines were removed from the Indian Veterinary Research Institute, Izatnagar, by some members of the staff who opted for Pakistan?

(b) If so, have any steps been taken by Government to recover those files?

The Honourable Shri Jairamdas Doulatram: (a) No.

(b) Does not arise.

AIR SERVICES BETWEEN CALCUTTA AGARTALA AND GAUHATI

570. *Shreejut G. S. Guha: (a) Will the Honourable Minister of Communications be pleased to state whether the chartered daily Air Service between (i) Calcutta and Agartala (Tripura State), and (ii) Agartala and Gauhati (Assam) started sometime ago by Airways India Limited has now ceased to ply?

(b) If this is due to any objection raised by the Government of Pakistan for flying over her territory, do Government propose to take up the question of re-starting the service either as a chartered or a scheduled one with that Government?

(c) Has the Air Mail Service to Tripura from Calcutta and Assam and *vice-versa* mentioned in a recent Government Press-note discontinued operating?

(d) If so, is its early revival under the consideration of Government?

(e) How many days does a letter by ordinary mail at present take to reach Agartala from (i) Shillong and (ii) Calcutta?

The Honourable Mr. Rafi Ahmad Kidwai: (a) Yes, Sir.

(b) The services have been discontinued for the monsoon season, in view of the lack of technical ground facilities and unfavourable weather conditions.

(c) Yes, Sir.

(d) Yes, Sir.

(e) (i) Letters posted at Shillong upto midday reach Agartala on the morning of the third day, (ii) Letters posted at Calcutta on any day reach Agartala on the morning of the third day.

SCHEDULED AIR SERVICE BETWEEN CALCUTTA, MANIPUR AND ASSAM

571. *Shreejut G. S. Guha: (a) Will the Honourable Minister of Communications be pleased to state when the present chartered daily Air service between Calcutta and Assam is expected to be replaced by a scheduled one?

(b) Has the work on the proposed Gauhati aerodrome been commenced?

(c) When is the construction expected to be completed?

(d) Is it under Government's contemplation to construct an air field for Shillong?

(e) Is it intended to connect Manipur State with Gauhati and Calcutta by air in the near future?

The Honourable Mr. Rafi Ahmad Kidwai: (a) It is expected that the present non-scheduled daily air service between Calcutta and Gauhati will be replaced by a scheduled air service on the route Calcutta-Baghdogra-Gauhati during the coming winter season.

(b) and (c). There is a temporary runway at Gauhati which is covered with matting and is suitable for limited operation. The construction of a permanent runway and terminal building will start after the monsoon and is expected to be completed by December, 1949.

(d) No, Sir.

(e) Not in the near future.

CONSTRUCTION OF ROAD FROM ASSAM TO AGARTALA IN TRIPURA STATE

572. *Shreejut G. S. Guha: (a) Will the Honourable Minister of Transport be pleased to state whether the proposed road from Assam to Agartala (Tripura State) is being treated as a continuation of the National Highway from Shillong *via* Dawki to the Cacher district?

(b) What is the length of the entire road and that portion of it from Kurti to Agartala?

(c) What progress has been made in the construction of the Tripura State portion of the road, and how long is it likely to take to complete its construction?

(d) Are Government aware that the present peculiar situation of Tripura State makes it urgently necessary that through communication between Tripura and the Indian Union be established at the earliest possible date in order to restore the State's economic stability?

(e) What is the length in miles of the proposed road from Kurti to Agartala from the State's northern boundary?

(f) Is any proposal under consideration of Government for connecting the Lushai Hills to the Tripura State by a motorable road?

The Honourable Dr. John Matthai: (a) No. The proposed road in Tripura State, from Agartala to the State border with Assam, will be a State highway, connecting with the Provincial road to Shillong *via* Silcher in Cachar District.

(b) The length of the entire road from Agartala to Shillong is about 440 miles out of which the portion from Kurti to Agartala is about 160 miles.

(c) The progress up to end of June, 1948 on the portion in Tripura State is as follows: (i) eighty miles of reconnaissance survey completed; (ii) fifty miles of twenty-five feet width of jungle cleared; and (iii) Survey work, plotting, provision of Hutting accommodation for staff and construction of temporary bridges and culverts under active progress.

Completion of the road in Tripura State is likely to take three to four years due to the mountainous nature of the country.

(d) Yes. The construction work is being carried out with utmost speed.

(e) It is not possible to give precise information pending finalisation of surveys.

(f) No.

RAILWAY LINK WITH ASSAM

573. *Shreejut G. S. Guha: Will the Honourable Minister of Railways be pleased to state when the through railway line linking Assam with the rest of India is expected to be completed?

The Honourable Dr. John Matthai: The work is well in hand and is expected to be completed early in 1950.

ROAD LINK BETWEEN ASSAM AND WEST BENGAL

574. *Shreejut G. S. Guha: Will the Honourable Minister of Transport be pleased to state whether the proposed road from West Bengal to Assam is expected to be completed during the next winter and if not, when?

The Honourable Dr. John Matthai: The answer to the first part of the question is in the affirmative. The latter part does not arise.

RESTORATION OF CUT IN PETROL

575. *Shri H. V. Kamath: Will the Honourable Minister of Transport be pleased to state when the fifty per cent. cut in motor spirit (petrol) imposed in May, 1948 will be restored?

The Honourable Dr. John Matthai: The petrol supply situation is kept under constant review and the cut in the scale of basic ration for private cars and motor cycles imposed with effect from the 1st May, 1948, will be restored as soon as the supply situation improves sufficiently to warrant its restoration.

Saturday
28th August, 1948

CONSTITUENT ASSEMBLY OF INDIA

(LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

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OF THE

CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE)

1948

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CONSTITUENT ASSEMBLY OF INDIA (LAGISLATIVE) DEBATES

(PART II PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Saturday, 28th August, 1948.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I).

11-45 A.M.

INDIAN INCOME-TAX (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Income-tax Act, 1922.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Income-tax Act, 1922."

The motion was adopted.

The Honourable Shri K. C. Neogy: Sir, I introduce the Bill.

INDIAN NAVY (DISCIPLINE) AMENDMENT BILL

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I beg to move for leave to introduce a Bill to amend the Indian Navy (Discipline) Act, 1934.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Indian Navy (Discipline) Act, 1934."

The motion was adopted.

The Honourable Sardar Baldev Singh: Sir, I introduce the Bill.

Mr. Speaker: The House will now proceed with the further consideration of the Factories Bill.

The question is:

"That clause 85 stand part of the Bill."

The motion was adopted.

Clause 85 was added to the Bill.

Mr. Speaker: The question is:

"That clause 86 stand part of the Bill."

Shrimati Renuka Ray (Bengal: General): Sir, I have an amendment to this clause.

Mr. Speaker: The honourable member should have stood up earlier. However, I find that it was my mistake not to have seen the amendment and therefore I will adopt the very unusual course—perhaps this is the first occasion—of opening up discussion of and allowing the moving of an amendment to a clause which I had put to the vote of the House. The honourable member may move her amendment.

Shrimati Renuka Ray: Sir, I move:

"That to clause 86 of the Bill, the following Proviso be added:

'Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the Provincial Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the Provincial Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act'."

I think the wording of this amendment speaks for itself and there is no need for me to go in for much elaboration. It is very important that this proviso should be added so that no factory or workshop may masquerade as a training institution and take advantage of this exempting clause in any way. There is such a proviso in the British Factories Act which has proved very useful and salutary. I feel that unless this proviso is inserted there is likely to be misuse of the exemption granted in this clause. I hope the Honourable Minister will accept this amendment. I do not think it takes away the elasticity that he wants to give to the Provincial Governments in these matters, because after all the addition of this proviso will only strengthen the hands of the Provincial Governments.

The Honourable Shri Jagjivan Ram (Minister for Labour): Sir, I accept the amendment.

Mr. Speaker: The question is:

"That to clause 86 of the Bill, the following Proviso be added:

'Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the Provincial Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the Provincial Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act'."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 86, as amended, stand part of the Bill."

The motion was adopted.

Clause 86, as amended, was added to the Bill.

Shri S. V. Krishnamurthy Rao (Mysore State): Sir, I move:

"That in clause 87 of the Bill, for the word 'upon', wherever it occurs, the word 'in' be substituted."

Mr. Speaker: The question is:

"That in clause 87 of the Bill, for the word 'upon', wherever it occurs, the word 'in' be substituted."

The motion was adopted.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I move:

"That in part (c) of clause 87 of the Bill, after the word 'operation', the words 'and for the insurance of their lives, of which half the cost shall be borne by the factory', be inserted."

Sir, here in this Factories Act we have provided safeguards for a certain section of workers. But there are other dangerous occupations where life is in great hazard. In some occupations, danger of slow death is a certainty. So if workers have to be employed in such occupations, their lives should be insured and half the cost of the insurance should be borne by the factory. Then if a worker knows that he is engaged in an occupation which will lead to his sure death, he will at least have the satisfaction to be able to make provision for his family, and as he himself cannot bear the entire burden, I think the factory owner should pay half the cost of the insurance. I think this is a very important provision and should be accepted. Sir, I move.

Mr. Speaker: Amendment moved:

"That in part (c) of clause 87 of the Bill, after the word 'operation', the words 'and for the insurance of their lives, of which half the cost shall be borne by the factory', be inserted."

The Honourable Shri Jagjivan Ram: I wish my friend, Prof. Saksena had gone through the Employees State Insurance Act, recently passed by the House. What he wants is not only covered by that Act, but there we have provided something more. He wants only half from the employers. But we have provided for two-thirds from the employers and one-third from the worker. I do not know how.....

Prof. Shibban Lal Saksena: But will that be available for persons whose lives are subject to a slow death?

The Honourable Shri Jagjivan Ram: That is covered.

Mr. Speaker: Then what is the position? Does the honourable member wish to press his amendment?

Prof. Shibban Lal Saksena: In the circumstances, I wish to have the leave of the House to withdraw.

Mr. Speaker: Has the honourable member the leave of the House to withdraw?

The amendment was, by leave of the Assembly, withdrawn.

Mr. Speaker: The question is:

"That clause 87, as amended, stand part of the Bill."

The motion was adopted.

Clause 87, as amended, was added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That for clause 88 of the Bill, the following be substituted :—

'88. *Notice of certain accidents.*—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.' "

This amendment has become necessary due to oversight of my experts. In the present clause it has been said that if the worker is unable "to work at any time during the 72 hours"—which will mean that if a worker has even got a simple bruise in the finger and is unable to work for ten minutes—a report will have to be made. That will cause unnecessary difficulties to the industry and it will become difficult even for the office of the Chief Inspector of Factories to maintain such records.

12 Noon.

Another difficulty will be that all the statistics which the Government is collecting in this respect, is based on the premise that a worker is unable to work for two days or more due to accident. So for purposes of comparison as to how far we have proceeded with the provisions for efficient improvement, in the safety measures of the factories, it will not be possible if the period is increased or reduced. So my amendment seeks to have the provision as in the existing Act.

Mr. Speaker: Amendment moved:

"That for clause 88 of the Bill, the following be substituted :—

'88. *Notice of certain accidents.*—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.' "

Mr. Nasiruddin Ahmad (West Bengal: Muslim): The marginal note which has now migrated into the clause, is being read as part of the motion. I submit, Sir, that on account of their proximity to the clauses, they produce an optical illusion that these are something like headings to the sections. We find in amendment No. 4 of list No. 7 by Shri S. V. Krishnamurthy Rao that he regards these marginal notes as 'headings' to the section. I submit that they are really marginal notes, although printed for purpose of convenience to look like headings of sections and should not be read when making the motion. If they are so read then they become a part of the section. As a matter of fact it is not intended that they should be part of the section. So as a matter of practice, both in making amendments and motions, and also in putting the same to the House, the marginal notes should be omitted. There is a tendency among many authorities to regard this as part of the section on account of the printing. I submit that this point should be settled.

Mr. Speaker: I accept the suggestion of the honourable member and next time, even when they are parts of the amendments proposed, I do not propose to put them to the House. That will clarify the position.

Prof. Shibban Lal Saksena: Sir, the matter of reporting accidents in factories is at present in a very deplorable state. I know of many factories where accidents occur but are never reported. By substituting the old section we are not doing justice to the whole problem. In this respect I think we should take guidance from the British Act. There they have a whole chapter on accidents and when an accident occurs somebody immediately goes and visits the factory and makes a report. Mere reporting is not enough. There are

enough penalties prescribed for failure. Even though it may not be possible to introduce any further amendments in this Bill I hope in the Workmen's Compensation Act the Honourable Minister will introduce such provisions so that every worker who meets with an accident may be able to get what he deserves as compensation. Sir, I support the amendment.

Mr. Speaker: The question is:

"That for clause 88 of the Bill, the following be substituted :

'88. Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.' "

The motion was adopted.

Mr. Speaker: The question is:

"That clause 88, as amended, stand part of the Bill."

The motion **was adopted.**

Clause 88, as amended, was added to the Bill.

Shri S. V. Krishnamurthy Rao: Sir, I move:

"That in sub-clause (2) of clause 89 of the Bill, after the word 'attends', occurring in line one, the word 'on' be inserted."

The proper phraseology is 'attends on a person' and not 'attends a person'.

The Honourable Shri Jagjivan Ram: Sir, I accept it.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 89 of the Bill, after the word 'attends', occurring in line one, the word 'on' be inserted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 89, as amended, stand part of the Bill."

The motion was adopted.

Clause 89, as amended, was added to the Bill.

Shri S. V. Krishnamurthy Rao: Sir, I have given notice of this amendment No. 4 on list No. 7 in order to bring the heading in conformity with the construction of the clause. In clause 90 the word 'inquiry' occurs in six places. Nowhere has the word 'investigate' been used. I want 'inquire into' substituted in place of 'investigation of'.

Mr. Speaker: The honourable member is referring to the marginal note. (*Shri S. V. Krishnamurthy Rao*: "Yes, Sir"). In that case it may be left to the draftsman to do the needful.

Mr. Nazirudin Ahmad: Sir, in support of the suggestion of Mr. Krishnamurthy Rao, I beg to state that the word 'investigation' under the Criminal Procedure Code means investigation by the police, whereas 'enquiries' are not by the police, but by magistrates and others. The amendment should be accepted.

Mr. Speaker: Opinions may differ on that point. However, it is a matter for the draftsman.

The question is:

"That clauses 90 and 91 stand part of the Bill."

The motion was adopted.

Clauses 90 and 91 were added to the Bill.

Mr. Speaker: There are some amendments in the name of Mr. Sidhva but the honourable member is absent. Perhaps he is not keen on moving them.

The question is:

"That clauses 92 and 93 stand part of the Bill."

The motion was adopted.

Clauses 92 and 93 were added to the Bill.

Prof. Shibban Lal Saksena: Sir, I move:

"That in the proviso to clause 94 of the Bill, for the word 'two', the word 'five' be substituted."

Under the proviso, no cognizance is taken of any conviction made more than two years before the commission of the offence which is being punished. I want it to be extended to five years. Members of the Legislature who are convicted are barred for five years. Two years is too short a period and should be extended to five years.

Mr. Speaker: Amendment moved:

"That in the proviso to clause 94 of the Bill, for the word 'two', the word 'five' be substituted."

Mr. Nazirudddin Ahmad: Sir, I oppose the amendment. The standard of morality which is expected or required of a member of the Legislature is far higher than the standard expected of a businessman and I think two years would be more than enough for a businessman. That would be a sufficient period of probation.

The Honourable Shri Jagjivan Ram: In addition to what Mr. Naziruddin Ahmad has said, I may say that even in the case of members of the Legislature it is taken into account only if the conviction is in respect of moral turpitude. Sir, I oppose it.

Mr. Speaker: The question is:

"That in the proviso to clause 94 of the Bill, for the word 'two', the word 'five' be substituted."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 94 stand part of the Bill."

The motion was adopted.

Clause 94 was added to the Bill.

Clauses 95 and 96 were added to the Bill.

Shri Ajit Prasad Jain (U.P: General): Sir, I do not propose to move the amendment standing in my name, but I would like to know from the Honourable Minister as to why he has not included the owners of factories within the scope of sub-clause (2).

The Honourable Shri Jagjivan Ram: Throughout the Bill the persons who have been made responsible are either the managers or the occupiers, and not the owners of factories—the owners of the premises of the factories. The owner comes in only in clause 98, that is, where more than one factory is working in the hired premises, and there the owner of the premises is held

responsible for certain things to be looked after about the premises. Therefore the word 'owner' is not necessary here and that is the reason why the owner has not been included throughout the Bill and the words used are 'manager' or 'occupier'.

Shri Ajit Prasad Jain: If there is a violation of law in a factory situated in a building where there is more than one factory, will not the owner be liable?

The Honourable Shri Jagjivan Ram: The manager or occupier is liable. But where the premises belong to the owner, as I have already pointed, he will be liable under Section 93.

Mr. Speaker: The question is:

"That clause 97 stand part of the Bill."

The motion was adopted.

Clause 97 was added to the Bill.

Clauses 98 to 100 were added to the Bill.

Shri Krishna Chandra Sharma (U.P.: General): Sir, I move:

"That for clause 101 of the Bill, the following be substituted :

'101. In a case against the occupier or manager of factory under this Act, it will be a defence for the accused that he has used due diligence to enforce the execution of this Act and that some other person has committed the offence in question against his instructions, or without his knowledge, consent or connivance.' "

I put it to the House that when a murder takes place and when two persons, A and B, take positions behind two bushes, A fires and B also fires. B hits the man—a passerby—and he is killed. Now A is prosecuted for the murder. A comes before the Court and says "I did not fire at the time when the person was passing, but it was another person behind another bush who fired and killed the man". Now, A is not required even in a murder case to file a complaint and plead that B is guilty and to stand as a prosecution witness to the fact that B is the murderer and not himself. I put it to the House to consider whether the murder of a man is a more serious offence or an offence committed under the Factories Act is a more anti-social Act. If in a murder case it is not necessary for the accused in defence to file a complaint and prosecute another man because not he (the accused) but another man has committed the offence, I do not see any reason why in an offence rather of a minor nature as violation of the provisions of the Factories Act the accused is required to file a complaint and plead that not he but another person has committed the offence and prosecute the man, come as a witness and see that the person is convicted. This is a rather demoralising state of affairs on principle for a man who is prosecuted to take up the plea that another man working under him has committed the offence, to make a complaint against the person working under him for an act which must necessarily be either with his connivance or with his instruction or for his benefit, to bring that person before a court of law and get him convicted. It is a demoralising state of affairs. It is a commonly accepted principle of law that a prosecution would not build its case on the defence of the accused. When a man is prosecuted, and in his defence he says that not he but another person has committed the offence, for the prosecution to prosecute another man and build a case out of defence is an impossible proposition in criminal law. Taking both the points, namely, that this will have a demoralising effect and that it is against the fundamentals of criminal jurisprudence I respectfully submit that the purpose of the clause would be served better, without affecting any of the accepted principles of criminal jurisprudence, by the amendment I have moved. That is, if an occupier or manager is prosecuted it will be a defence for him to prove that he took all the precautions to enforce the execution of the Act and that despite all these, some other person

[Shri Krishna Chandra Sharma]

committed the offence against his instructions, or without his knowledge, consent or connivance. Sir, I move.

Mr. Speaker: Amendment moved.

"That for clause 101 of the Bill, the following be substituted:

'101. In a case against the occupier or manager of factory under this Act, it will be a defence for the accused that he has used due diligence to enforce the execution of this Act and that some other person has committed the offence in question against his instructions, or without his knowledge, consent or connivance.' "

Shri K. Santhanam (Madras: General): I am afraid that my friend has made a mistake regarding the principles of criminal jurisprudence. The law relating to institutions is fundamentally different from that relating to mere individuals. When an institution is concerned, where the law provides that the institution shall conform to certain regulations the responsibility of the persons who are in charge of the institution is more or less absolute. For instance, a newspaper publisher cannot say that somebody else has committed a mistake. Similarly the factory manager must be liable. But where he can come to the court and definitely prove that he did take all the steps prescribed and that another person wilfully committed the offence, and also brings the person to the court, then the exemption is given. The intention is that no offence should go unpunished. It is only in extreme cases where he shows that it was absolutely due to another person's criminality that an exemption is given. Otherwise it will be very easy for a manager to manufacture documents to say 'I instructed so and so to put all the coverings for dangerous machinery; but this man neglected or refused'—and that man will be unavailable. The result would be that the workers might meet with accidents and die, but no one will be held responsible. Not only in this Bill but wherever institutions are forced to comply with certain regulations the principle is that ordinarily the manager shall be absolutely responsible and no plea shall be accepted from him except in the extreme case of some other person having been proved to have deliberately committed the offence in order to spite or do damage to the person concerned. That is the principle. This section was there in the old Bill also.

Shri Krishna Chandra Sharma: Will my friend find any other precedent in any other law where the law compels the accused.....

Mr. Speaker: Order, order. Let him proceed.

Shri K. Santhanam: It is not a question of the accused at all; the accused is the factory itself and because technically the accused cannot be brought before the Court, the manager or the occupier is brought before the Court—otherwise no provision need be fulfilled, it can all be disobeyed and no one will be liable.

Even in the Minimum Wages Bill this provision was inserted and the same argument about criminal jurisprudence was under discussion.

Mr. Nazirudd in Ahmad: Sir, I rise to support the amendment. It would be a preposterous proposition to state that a man, whose criminal mind is not behind an act, who acts *bona fide*, should be punished at law for things done against his wishes or contrary to his instructions and for which he is not morally responsible. It is a dangerous principle and we should not adopt it even in our anxiety to punish a guilty man. That would lead to the punishment of persons morally innocent. Recently the Privy Council has held that criminal intention or *mens rea* is absolutely necessary to prove an offence, unless in exceptional cases the Legislature absolutely removes that element from the constitution of the offence, but those are hard and rare cases. I do not say that cases may not arise where a man should be held guilty though his mind was not behind the act.

But these are not such cases. There should be no fear that a man would go scot-free by showing forged papers or prepared papers or by the help of manufactured evidence. That possibility is always there whatever law you may pass. After all there are the Courts and they have got to decide on the evidence, and they are fully competent to take care of themselves. In a case where there is room for doubt an accused should be discharged or acquitted; political consequences have nothing to do with the administration of criminal law. In fact, politics is one thing and law is quite a different thing. If we are to punish a man, he must be punished for his own act. If his guilty mind is not behind it, it would be wrong to punish him. Though it may be that in some cases guilty persons will escape, but that is no reason why you should relax a fundamental principle of law designed for the safety of the innocent.

This is a salutary principle which we cannot afford to lose. It raises a question of constitutional importance and I think the Honourable Minister should carefully consider the matter. In our zeal for punishing persons who might be possibly guilty, we should not relax the high principles of criminal jurisprudence for that will lead to the punishment of the innocent; that would be going against the principles of the very constitution under which we live. In these circumstances, I submit that the accused should be acquitted in whose favour there is this element that his criminal mind is not behind the act. He is not morally guilty; should he be legally guilty if he is not morally guilty? This high principle is behind this amendment. I support this amendment.

Shri S. V. Krishnamurthy Rao: Sir, I oppose this amendment. If this amendment is accepted, I think it will defeat the very purpose of the section. We are not legislating penal law. In fact, this labour legislation enjoins the owners and managers of factories to conform to certain duties and when that duty is infringed it imposes a penalty. In certain cases, especially in cognizable cases, the accused is not at all called upon to enter on his defence and it is only after the prosecution closes its case that the accused enters upon the defence.

The purpose of this section as I understand it is that the manager or the owner, if he feels that he is not responsible for the offence and that some other person is responsible, should at the very first opportunity make it known to the Court that he is not responsible and that somebody else is responsible. It is with that object I think this section is inserted. It says:

"Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge;"

At the very first instance when the charge is made in the Court, he has to inform the Court of the person who is responsible for the infringement of the rules so that the proper person may be brought to book. So, if I understand it aright, that object will be defeated if it has to be postponed to a date on which the accused is called upon to enter upon his defence. If this amendment is accepted it will defeat the very purpose of the Bill. Sir, I oppose the amendment.

Prof. Shibban Lal Saksena: Sir, I strongly oppose the amendment. In fact, I had proposed to move an amendment to delete the whole clause but I will not move it now because I think what I wanted to say I can say just now.

I think that if the transgression of any factory law is committed in a factory, the responsibility for such violation of law must be placed on the occupier or the manager who is in charge of it. Experience shows that a factory owner or a manager is never convicted; some labourer or some other man is made the scapegoat and is punished. Sir, I wish it had been said in this Bill that if any infringement of factory law took place in the factory then the occupier would

[Prof. Shibban Lal Saksena]

be himself responsible; then alone will he see to it that no employee of his infringes the law. What happens when the law is infringed today is that the benefit of violation of law goes to the occupier or the manager. So, if he knows that for the mere commission of the offence he will be punished, he shall exercise due diligence and see that no offence is committed. But when he has the choice to put up somebody else and say, "Look here, he is the man who has done it", he will always do things which bring him profit and will put up somebody who will go to jail for him for a month or two. It often happens so. So I had wished for the deletion of the whole clause.

Some of my lawyer friends in this House think the present clause is too stringent and hard, and violates the principles of legal jurisprudence. I think it is the duty of the occupier of the factory to see that no infringement of factory law is committed in it. It would be impossible for the Government to prove that such and such a person in the factory has been responsible for it. What the Government can do is to say that such an infringement has occurred in the factory, so the factory is guilty. In fact, this section shows much leniency to these factory owners, for now they can escape punishment by bringing somebody and saying, "Look here, he is the man who is responsible for it".

Sir, I think the best thing would have been not to have put the section at all. (*Mr. Naziruddin Ahmad*: "I quite agree"). But when it has been put, I think it has been put in the best possible way because there at least the factory owner will have the onus to prove that that is the man who is responsible and he should be punished. Normally it will be difficult to find people who will be prepared to undergo three or four months imprisonment though for money they can be produced by any factory owner.

Sir, I therefore think that this is the second best alternative and I therefore support this clause and oppose the amendment moved by my lawyer friends.

پنڈت ٹھاکر داس بھارگو : جناب سبھپتی صاحب ! میرا ارادہ نہیں تھا کہ میں اس کلاز پر کچھ کہوں - لیکن میں جناب کی خدمت میں یہ عرض کرنا چاہتا ہوں کہ پہلے بھی یہاں پر کچھ ایکٹ پاس ہوئے ہیں جن کے اندر اس قسم کے دفعات تھے جن کے متعلق ہاؤس کے سامنے اُنکے نقائص بیان کئے گئے تھے - لیکن باوجود ان حجتوں کے بھی وہ پاس کئے گئے - میں کسی ایسے اصول کے خلاف نہیں ہوں جسمیں occupier یا ملیجر کی ذمہ داری خلاف ورزی خاص دفعات کے لئے رکھی جاوے لیکن میں ادب سے عرض کرونگا کہ جہاں تک اس کلاز کا تعلق ہے نہ اسمیں سوال ذمہ واری occupier یا ملیجر کا ہے - نہ ہی moral conviction کا سوال ہے - بلکہ یہ clause صرف jurisprudance کے خلاف ہی نہیں ہے - بلکہ تمام اصولوں کے morals کے و انسانیت کے و انسانی conduct کے جواز کے خلاف ہے جیسا کہ میرے دوست مسٹر شیبن لعل کا خیال تھا کہ یہ سارا کلاز omit کر دیا جاتا تو بہتر ہوتا - جب کبھی ایسا سوال کورٹ کے سامنے آتا ہے تو کورٹ فیصلہ کرتی ہے کہ اگر جرم ہوا ہے تو مجرم کون ہے - سوال یہ ہے کہ جرم کے ہونے پر کسی کو مجرم ثابت کرنے کی ضرورت ہے یا نہیں - لیکن اس clause میں یہ درج ہے کہ ایک آدمی جسپر الزام ہے اُسکو اپنی جگہ ایک substitute کر رکھنا

پڑیگا اور اگر وہ ایسا نہیں کرتا تو اُسکو سزا ملیگی - اس کے علاوہ دوسری بات جو میں عرض کرنا چاہتا ہوں یہ ہے کہ اگر ایک شخص یہ ثابت بھی کرے کہ جرم دوسرے شخص نے کیا ہے - اور یہ بھی ثابت کرے کہ وہ جرم اُسکی غفلت سے نہیں ہوا ہے یا اُس کی رضامندی وغیرہ سے نہیں ہوا ہے تو بھی وہ بری نہیں ہو سکتا - اسپر مجھے ایک کہاوت یاد آتی ہے وہ اندھیر نگری چوپٹ راجہ ٹکے سیر بھاجی ٹکے سیر کھاجہ " - چونکہ جرم ہوا ہے اس واسطے کسی کو سزا دینی ضروری ہے - خواہ وہ ثابت بھی کرے کہ وہ بے گناہ ہے - موجودہ کلاز کی رو سے occupier یا سلیجر کو conclusively مجرم گردانا گیا ہے مطلوبی طور پر ہے - اور اگر اُسکو پکڑا جاتا ہے تو اُسے یہ option دیا گیا ہے کہ وہ کسی آدمی کو لا کر کہدے کہ اس نے جرم کیا ہے - ایسا اگر ثابت بھی ہو جائے کہ دوسرے شخص نے جرم کیا ہے تو بھی occupier یا manager کا پیچھا نہیں چھٹتا کیونکہ دفعہ میں علاوہ (a) کے (b) بھی ہے - اس میں یہ درج ہے -

"Unless he proves to the satisfaction of the Court—

(a) that he has used due deligence to enforce the execution of this Act, and

(b) that the said person committed the offence in question without his knowledge, consent and connivance."

یعنی کسی مقدمہ میں یہ نہیں دیکھنا ہے کہ سلیجر یا occupier نے جرم کیا ہے یا مجرم اور کوئی شخص ہے - لیکن دیکھنا یہ تھا کہ occupier یا سلیجر کا چلنر behaviour کیسا ہے - یعنی اگر ایک جرم کے اندر یہ ثابت ہوتا ہے کہ وہ بے گناہ ہے - اور اُس نے جرم نہیں کیا ہے - لیکن اُس کو یہ ثابت کرنا ہے کہ اُس نے اس ایکٹ کے execution میں due diligence enforce کی ہے - اس کے تحت تو اُس کا سابقہ چال چلن وغیرہ بھی آتا ہے - اس لئے میں نہایت ادب سے عرض کرونگا کہ اس کے provisions نہایت harsh ہیں اور قانون کے خلاف ہیں انصاف کے خلاف ہیں اور انسانیت کے خلاف ہیں - اسکے علاوہ اسکے proviso کو دیکھکر اور بھی ہنسی آتی ہے - اِس میں لکھا ہے کہ تین ماہ تک اگر کوئی شخص substitute کے طور پر نہ ملے تو باوجود کوشش occupier و سلیجر کے کہ ایسا شخص حاضر ہو جاوے - اور وہ حاضر نہیں رہتا تو اُس سلیجر یا occupier کو مجرم قرار دیا جائیگا اور اُس کو سزا دیجائیگی - میں یہ دریافت کرنا چاہتا ہوں کہ اِس کلاز میں یہ الفاظ کیوں رکھے گئے ہیں - کہ

"Brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager."

میں پوچھنا چاہتا ہوں کہ اگر تین ماہ تک وہ شخص دوسرے آدمی کو نہ لاسکے تو اس کا یہ نتیجہ ہوگا کہ اُس نے جرم کیا ہے چاہے اگر وہ بے گناہ بھی ہو میں پوچھنا چاہتا ہوں کہ اگر تین ماہ میں وہ اُس

[پنڈت تھاکر داس بھارگو]

شخص کو کورٹ کے سامنے لانے میں کامیاب نہ ہو تو اُس سے مقدمہ میں کیا فرق پڑتا ہے - اسلئے یہ ایک meaningless بات ہے - کہ اگر وہ ایک substitute کو اگر پیش نہ کرے تو اُسکو سزا دی جایگی ایسی حالت میں الفاظ "if the offence be proved" دو اصل بے معنی ہیں اگر سزا ضرور ملتی ہے -

میرے دوست مسٹر شبن لال کا خیال بالکل درست ہے - اور یہ بات یہاں کے وکیل ممبران کو ہرگز ہضم نہیں ہو سکتی ہے -

ایک penal clause خلاف jurisprudence بنایا جا رہا ہے اور یہ بالکل نامناسب بات ہے کہ بے گناہ آدمی کو سزا دی جائے در اصل مناسب یہ ہے کہ ایسا انتظام کیا جائے کہ قانون کی خلاف ورزی بھی نہ ہو اور کسی بے گناہ آدمی کو خواہ مخواہ سزا بھی نہ ملے - قانون بے شک ایسا ہونا چاہیئے جس سے کہ کسی کو بھی تکلیف نہ ہو - اور اس میں کوئی اس قسم کی بھی گنجائش نہیں ہونی چاہیئے جس سے کہ ایک ملیجر یا occupier رشوت دے کر کسی دوسرے بے گناہ آدمی کو اس میں پھنسائے - میں یہ مانتا ہوں کہ قانون کا یہ ہرگز منشا نہیں ہے کہ کسی بے گناہ آدمی کو خواہ مخواہ پھنسایا جائے — اور اُسکو سزا دی جائے اس قسم کا provision کسی بھی قانون میں نہیں ہونا چاہیئے جو باوجودیکہ اسلے جرم نہیں کیا تاہم اس کو سزا ہو سکتی ہو - غفلت کے بارے میں مجرمیت ہو سکتی ہے لیکن قصور کوئی شخص کرے اور وہ حاضر نہ ہو سکے تو بیگناہ کو سزا نہ ہونی چاہیئے -

میں آنریبل ممبر منسٹر صاحب سے یہ گزارش کرونگا کہ یہ بھی نہیں ہونا چاہیئے کہ ملیجر اور occupier کو قانونی ذمہ واری سے نکال دیا جائے لیکن ایسی ذمہ واری قائم نہ ہونی چاہیئے جس سے بیگناہ ہوتا ہوا بھی وہ ملزم قرار دیا جائے اس دفعہ کو ایسی شکل دی جائے کہ معصوم اور بےگناہ آدمی اس کی زد میں نہ آ سکیں اور اصلی مجرم اس قانون سے ناجائز فائدہ اٹھا کر کسی بے گناہ کو نہ پھنسا سکے کیونکہ یہ اصول کے خلاف ہوتا ہے - ایک بے گناہ کو خواہ مخواہ میں پھنسا کر اُس کو سزا دینا بے انصافی ہے اور اس لئے قانون نہیں بنائے جاتے کہ معصوم آدمیوں کو پھنسا دیا جائے بلکہ قانون اس لئے بنتے ہیں کہ اصلی مجرم کو قرار واقعی سزا مل جائے ایسے قانون جو ان اصولوں کے خلاف ہوں یہ یہاں کے Lawyer ممبران آسانی سے ہضم نہیں کر سکتے ہیں - ایسے قانون جو عالمگیر اصولوں کے خلاف ہوتے ہیں اپنا purpose آپ defeat کرتے ہیں اور ناکارہ ثابت ہوتے ہیں -

(*English translation of the above speech*)

Pandit Thakur Das Bhargava (East Punjab: General): Mr. Speaker, Sir, I had no intention of speaking on this clause, but I would like to state for your information that many such Acts have been passed before which contain similar provisions and their defects were brought before the House. But in spite of objections they were passed. I am not opposed to any such principles which place the responsibility for the breach of certain clauses on the occupier or manager. I would respectfully submit, Sir, that so far as this clause is concerned neither does it involve the question of responsibility of the occupier or manager, nor of moral conviction. But this clause is not only against the canons of jurisprudence, but it contravenes all principles, morals, humanity and validity of human conduct. Just as my honourable friend Prof. Shibban Lal has pointed out it would have been much better if this entire clause been omitted. Whenever any such question is raised before the court, the court decides that in case the offence has been committed who is the culprit? The question is whether it is at all necessary to prove anybody guilty when the offence is committed. This clause provides that when a man is charged with an offence, he shall have to bring before the court a substitute in his place and if he does not do so, he is liable to be punished. Apart from this, another point which I would like to mention is that if a person proves that the offence has been committed by some other person and further proves that the offence was not committed through his negligence or connivance, etc., even then he cannot be acquitted. This reminds me of a well-known proverb:

"ANDHER NAGRI CHOPAT RAJA,...

TAKE SER BHAJI TAKE SER KHAJA".

which means 'Confusion worse confounded'. Because the offence has been committed, it becomes necessary to punish someone despite the fact that he may prove himself to be innocent. According to the existing clause, the manager or occupier has been held to be conclusively and virtually guilty, and if he is arrested, he is given an option to produce any person whom he should charge with the commission of the offence. If it is proved that the other person has committed the offence, even then the manager or occupier is not absolved because in this clause in addition to sub-clause (a), there is (b) also which lays down:

"Unless he proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said person committed the offence in question without his knowledge, consent and connivance."

Thus it has not to be judged in any case whether the manager or occupier has committed the offence or some other person is guilty. But it has got to be seen as to what has been the behaviour of the manager or occupier? If in the trial of an offence it is proved that he is innocent and has not committed the offence, even then he has to prove that he used due diligence to enforce the execution of this Act. This also covers his previous conduct, etc. Therefore I will respectfully submit, Sir, that the provisions of this clause are very harsh and against the fundamentals of law, justice and humanity. In addition to this, a look at its proviso causes further laughter. It lays down that if no substitute is found up to three months and despite the efforts of the manager or occupier that such a person, should be brought before the Court and he does not present himself, then that manager or occupier shall be convicted. I would like to know why the following words have been added in this clause:

"Brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager."

[Pandit Thakur Das Bhargava]

I want to know that if up to three months he is not able to produce the other person, then would this mean that he has committed the offence though he might be innocent? May I know what difference does it make in case he fails to bring that person before the Court within the period of three months. Therefore this is quite meaningless, that he should be punished simply on account of his failure to produce a substitute. In such a condition the words "if the offence be proved" are quite meaningless, if conviction is necessary.

What my honourable friend Professor Shibban Lal thinks is absolutely correct and those members of this House who are lawyers cannot at all agree to this. A penal clause is being inserted against the principles of jurisprudence and it is quite improper that an innocent person should be convicted. In fact the proper course is to take such steps as would obviate the breach of law, and no innocent person punished. The law should be elastic so that it may not harm anybody. It should not contain any such provision by means of which a manager or occupier may implicate an innocent man by offering a bribe. I agree that it is not the intention of the law that any innocent person should be embarrassed and convicted. Such a provision should not be made in any law which enjoins that punishment should be awarded to a person irrespective of the fact that he did not commit the offence. Criminality may be attributed to neglect, but if another person commits an offence and he is not available, then the innocent person should not be punished. I would, therefore, request the Honourable Minister for Labour that the manager and occupier should not be exonerated from the legal responsibility. But this responsibility should not be so placed that an innocent person is treated as a culprit. An innocent person should not be victimized by the provisions in this clause, and the actual offender enabled to implicate an innocent person by misusing the provisions of this law. This is against the principles of jurisprudence that an innocent person be implicated without any reason, it would be sheer injustice to punish him. The legislation is not framed for the purpose of involving innocent persons but to ensure conviction of the actual culprits. The lawyer members of this House cannot easily digest such a legislation which is against these principles. Such laws which contravene the universal principles defeat their purpose and prove ineffective.

Shri Ajit Prasad Jain: Sir, I have carefully listened to the arguments advanced by my friend Mr. Bhargava. This is not the first time that a law is being passed where a certain responsibility is being constructively placed upon a person. In quite a number of other laws such responsibility has been fixed. The Directors of the Company have been made responsible not actually but constructively for any black-marketing carried on in the factories. Here we have to judge the whole thing from the point of view of social good. The factory manager or occupier has been made constructively responsible for the violation of the provisions of the Factory law but he has been given the right to produce the actual culprit in which case he can escape the liability. My friend referred to the proviso and said that if the actual culprit is not available in three months then the occupier or manager shall be prosecuted in all cases. I would draw his attention to the last sentence wherein it is stated "if the offence is proved". Mere commission of an offence without showing who has committed it is not proof of the offence. The prosecution will have to show that a violation of the law has taken place and that the manager or occupier has not taken sufficient care or exercised sufficient diligence to prevent the commission of that offence.

Shri K. Santhanam: Prosecution has not to prove that. It has only to prove that an offence has been committed.

Shri Ajit Prasad Jain: Please see clause 117 wherein anything done in good faith is fully protected. So I think that the responsibility has been correctly

fixed on the manager or occupier, because the whole responsibility for administering has been placed upon him and if he is absolved of the responsibility that is if the law simply says that the person who has actually committed the breach shall be punishable, in that case, the whole scheme of the Act will become a nullity.

It will not be possible to enforce the provisions of this Act. In a case of this kind it is the consideration of public policy that should prevail and not the metioulousness of the juristic principles.

A short while ago, I made a complaint that this exemption has been provided only in the case of the occupier or manager. The occupier or manager has been made constructively responsible for offences. But the owner, in the case where the premises are occupied by more than one factory or where one building is occupied by more than one factory, is constructively responsible for the action of the occupier or manager, who is construotively responsible for the action of the person actually committing the violation. If this exemption is provided in the manager or occupier, this person who is doubly constructively responsible is entitled to this exemption all the more. I think the law as it stands is perfectly correct, except that care should be taken that undue use may not be made of the provision. After all it is the Factory Inspector who will launch the prosecution or with whose approval prosecution shall be filed. Government should see that the occupiers and managers are not unnecessarily harrassed nor the workers made scape-goats and punished merely because the occupier or manager wants to escape his own responsibility. So far as the present scheme of the section is concerned, I think it is perfectly good and absolutely necessary for enforcing the provisions of this law. It may not conform to the strict principles of criminal jurisprudence, but it is absolutely necessary in the public interests.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I support the amendment. I want the Honourable the Minister to consider the effect of the provision as it now stands, in section 101. If you are pleased to see section 20, you will notice that we have stated that the factory has to provide a sufficient number of spittoons in convenient places and maintain them in a clean and hygienic condition. Take for instance a factory where the owner, or manager or occupier, whoever may be responsible for it, provides the number of spittoons required of him, but somebody takes it into his head to remove half of them or they just manage to make them unclean. There are certain other provisions like that. There is a violation and a complaint is made and the manager and occupier are prosecuted. What is the absurd position to which we are being led to? They will have not only to see that they had put in these spittoons and that they all are in a clean and hygienic condition, but they will also have to find out who it was that has removed a number of these spittoons required to be maintained in the factory. If he is not in a position to do that,—supposing the man who has removed the spittoons gets away from the factory, he cannot be found out—the occupier or manager, in spite of the fact that he had done everything that was required of him, he will be convicted. Surely, this is a novel thing.

Prof. Shibban Lal Saksena: He must take care and see that no one removes them.

Shri Prabhu Dayal Himatsingka: My honourable friend says that he should see that no one removes them. He expects the manager or occupier to be at every point of the factory where thousands of workers will be working. (*Mr. R. K. Sidhva*: "He will have his agents.") He will have his agents. I know the spirit that is prevalent. I know that we are not prepared to consider it from the purely legal and correct point of view. Certainly, we should make all provisions whereby we can compel the occupier or manager to arrange for all the conveniences and other amenities, cleanliness and other things. But,

[Shri Prabhu Dayal Himatsingka]

simply because somebody, as I said, deliberately, in order to put the manager or occupier in difficulty, does something which is against the provisions of the Factory Act, will you agree to punish him? (Interruption).

Mr. Speaker: Let him proceed.

Shri Prabhu Dayal Himatsingka: My friend has forgotten that the occupier or manager has used all due diligence to enforce the execution of this Act. But, he has not only to see that he has taken all the steps required of him, but he has also to produce the offender, and he must also show that the act has been done by him without his knowledge, consent or connivance. Take for instance, section 20. No person shall spit in the premises of the factory except in the spittoons. Supposing somebody does, that is an offence committed in the factory. And in terms of section 92, which says, "if in, or in respect of, any factory there is any contravention of any of the provisions of this Act", the occupier and manager can be prosecuted. There is a contravention of one of the provisions of the Factories Act and there is an offence committed. Therefore, if somebody has spat in the factory, no doubt, the person who has spat there is also responsible, but still, because it is an offence committed in the factory, the occupier or manager can be made responsible unless he shows that he has not failed to take all reasonable measures for its prevention. (*The Honourable Shri Jagjivan Ram*: "No no.") The Honourable Minister says no, no. I shall wait for his reply. So far as I have been able to follow the provisions of sections 92, 97 and 101, unless he can lay his hands on the person who has committed the violation, the occupier or manager can be convicted. (Interruption.) I do not want to be diverted; let me go on in my own way. Therefore, I would request the Honourable Minister to consider this. I do not say that anything should be done to allow the occupier or manager to escape from any responsibility that we have cast on him. But we should not legislate in such a manner that even when he has done all that was required of him, he shall be convicted,—not only may he convicted,—unless he can produce the person alleged to be the accused within a certain time. I support the amendment and I beg the Honourable Minister to consider the effect of this provision.

The Honourable Shri Jagjivan Ram: Sir, I did not know that on this clause there will be so much of controversy. You may yourself very well remember, Sir, that when we were considering the Minimum Wages Bill in this House, on a similar clause, legal objections were raised by my honourable friend Pandit Thakurdas Bhargava, who claimed that it was a novel provision, and you yourself pointed out certain Acts in which this provision was provided. I will simply say that this is not a novel provision. This clause has been bodily taken out from the old Factories Act of 1934. It finds a place in a number of other Acts. But to draw the analogy of a murder with an offence committed in a factory, I think, is far fetched. I do not think in the case of a murder, anybody is specifically charged with the duty to see that such and such person should not be murdered. Here, the whole scheme of the Factories Bill is that we make the occupier or manager of any factory specifically responsible for the various obligations that have been placed upon them. And when an offence is committed one has not to find out who is responsible for it; the responsibility has been thrown on the occupier and the manager. I think it is in the interest of the occupier and the manager. I can understand Mr. Sharma and Mr. Bhargava arguing against the clause on legal grounds but I cannot understand my friend Mr. Himatsingka arguing against the clause itself. The acceptance of the amendment would mean that the manager or occupier could say that with due diligence he had provided a number of spittoons but some one else has taken them away, and therefore nothing is to be done against him. The responsibility is his, but I could not understand the argument that if a worker spits somewhere in the factory the occupier will be prosecuted. I am not a lawyer but I am sure that where specific offences are laid down and specific

punishments provided, if a worker commits an offence and spits somewhere except in a spittoon he is to be punished and not the manager. Of course if a sufficient number of spittoons is not provided the occupier or manager is responsible; but if he says that he provided the required number and some one else removed them he will have to prove that.

Shri Prabhu Dayal Himatsingka: And he will have to produce that somebody.

The Honourable Shri Jagjivan Ram: Yes, because everybody in the factory is under him and responsible to him. The scheme of the entire Bill is that nothing happens without his permission or connivance or orders. And if anything happens against his orders he will have to prove it.

Pandit Thakur Das Bhargava: That is not sufficient. If a person proves that he has no knowledge or connivance etc., even then he is guilty unless he can prove that in all other matters he has exercised due diligence.

The Honourable Shri Jagjivan Ram: Of course, the whole obligation is on him and he is expected to discharge his obligations. If you leave him aside on whom are you going to throw the obligation of fulfilment of the provisions of this Bill? Certainly it is on the occupier and manager; and he has to prove that in spite of his due diligence to fulfil his obligations under this measure and in spite of his instructions his subordinates are recalcitrant and violated his orders. In that case the person or persons who violated his orders will be punished and not the manager or occupier. The whole scheme of the Bill is to throw the obligation on the manager and occupier unless the guilty person can be produced.

Sir, this provision is very necessary and I am not prepared to accept the amendment.

Mr. Speaker: The question is:

"That for clause 101 of the Bill, the following be substituted:

'101. In a case against the occupier or manager of factory under this Act, it will be a defence for the accused that he has used due diligence to enforce the execution of this Act and that some other person has committed the offence in question against his instructions, or without his knowledge, consent or connivance.'"

The motion was negatived.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Shri Ajit Prasad Jain: Sir, I move:

"That in clause 101 of the Bill, after the word 'manager', wherever it occurs, the words 'or owner' be inserted."

Only a short while ago, it was stated by the Honourable Minister that the manager and occupier of a factory have been made responsible for the violation of law, because they were responsible for the observance of the rules in the Factory. It was for that reason that an exception has been provided, namely, that if they can produce the actual offender, then the manager or occupier shall not be responsible for the breach of law. This law applies to cases where there is one factory in one premises. In cases where there are more than one factory in the same premises, the owner has been made responsible for the observance of law. I do not quite agree with that principle, but as we have already adopted clause 98, that question is over. However, I see no reason why the same privilege should not be extended to the owner. The occupier,

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or the manager or the owner should stand on the same footing. In fact, the owner is deserving of a little more concession because the owner has no control or domination over the affairs of the factory, and if the principle has been conceded to the manager or occupier, there is all the greater reason that it should be extended to the owner.

Mr. Speaker: Amendment moved:

"That in clause 101 of the Bill, after the word 'manager', wherever it occurs, the words 'or owner' be inserted."

The Honourable Shri Jagjivan Ram: The difficulty is this. If the amendment is accepted it will read like this:

"Where the occupier or manager *or owner* of a factory."

Now in the whole of this Bill, there is nothing like an owner of a factory. We have either a manager or an occupier of a factory, There is no owner of a factory. Even in the definition, we have not defined an 'owner' of a factory, though we have defined the 'occupier' or 'manager'.

Now Mr. Jain's difficulty is that under section 98 we have placed some liability on the owners of premises in certain circumstances. But in the proviso to the same section 98, we have amply safeguarded the owners of such premises and I may read the proviso to section 98:

"Provided that—

(i) the provisions of this section shall not apply to, or in respect of, any building or room in the sole occupation of the occupier of a factory;

(In that respect the risk of the owner is shifted to the occupier or manager of the factory).

(ii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to the cleanliness of sanitary conveniences only when those conveniences are used by workers of more than one occupier;

(iii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to hoists and lifts, and means of escape and safety precautions in case of fire, only in so far as the said provisions relate to things under his control."

For other contraventions the occupier or the manager is made responsible and so far as the owner is made responsible under this section 98, he has been made responsible for the provisions under Chapter 3 and Chapter 4, which are cleanliness and sanitary provisions made in the factories.

Furthermore, the difficulty is that if we insert "owner" here it will read "owner of a factory" which is nowhere provided for in this Bill. We have either 'manager' or 'occupier' of a factory. There is no term like the 'owner' of a factory. I do not think the amendment fits in here.

Shri Ajit Prasad Jain: I quite realize the difficulty. If my principle is a sound one, then my amendment may be amended by the Honourable the Minister and accepted. But if he does not want to accept it, I do not insist upon it.

Mr. Speaker: The idea seems to be to tighten the measure against people who are actually in charge of the running of the factory and not against people who own the factory. Supposing the factory is owned by some person and it is leased for working to another man. That seems to be the distinction.

The Honourable Shri Jagjivan Ram: Exactly: the whole responsibility is on the manager or the occupier.

Mr. Speaker: Does the honourable member wish me to put his amendment to the House?

Shri Ajit Prasad Jain: It need not be put because I know its fate. I therefore ask permission to withdraw.

Mr. Speaker: Has the honourable member leave of the House to withdraw?

The amendment was, by leave of the Assembly, withdrawn.

Mr. Nasiruddin Ahmad: I want to speak on the clause.

Mr. Speaker: I think the honourable member has already fully spoken on it.

Mr. Nasiruddin Ahmad: I will not repeat any of my arguments.

Mr. Speaker: All right.

Mr. Nasiruddin Ahmad: I have found here an attempt to copy a similar section in the English Factories Act of 1937, namely, section 137. As a matter of fact, the inspiration of this clause has apparently been derived from this English section. But the English Act deals with the matter in a more scientific and legalistic way. It says that if a manager or occupier is prosecuted then he can name the person who he alleges is really guilty. Then the man so named may be brought on the record and evidence may be given against him and he may be convicted summarily. That is an additional right given to the occupier or manager to have brought on the record a man whom he says is really guilty. But he cannot, under the British Act, be punished as a matter of course, if the man named is not found, or is found but is not convicted. Not so, however, in the Bill. The Bill says that if the man named is not produced in three months and if the offence is proved, although the manager or occupier may not have had any thing to do with it, he will still be convicted. This part of the Bill has no counterpart in the English section. The English section merely gives the occupier or the manager the right to name the real offender and to show that he was not really personally or morally responsible but the failure to bring the man on the record or to prove the guilt against him does not involve the consequence that he will himself be convicted, if merely the offence is proved, as the last part of the second proviso to the clause shows. In fact by trying to prove that somebody else has committed the crime the manager or occupier under this clause would be incurring a grave responsibility. In fact ordinarily no lawyer, unless he is fit to be kept in a mad house, will suggest to his client to undertake this risky task, because if the man is not produced or if his guilt is not proved, then he will himself be *ipso facto* found guilty. In fact the ordinary law, apart from Section 101, is in his favour. While the English section gives him an additional right, the Indian section proposes to give him the same right but with the stipulation that it will be extremely risky on his part to name the man and prove his guilt. The section in the existing Act from which clause 101 has been taken in my experience has remained a dead letter. No accused will take the responsibility of doing so, because the ordinary law is available to him and in case he thinks that his case is strong or rather the prosecution case can be shown to be weak, he will be acquitted. It is only when he tries to take the so-called advantage of Section 101 that he will put himself in difficulties.

Much of the argument in favour of the clause was due to a feeling that when there is a factory manager or occupier, when an offence is committed within or without his knowledge, he must be found guilty. I ask the Honourable Minister and the House to consider the absurdity of the position. There is a care-taker of this Assembly building. Somebody commits nuisance somewhere and if it is a fact that he is responsible for keeping the place clean and for looking after the welfare of the building, he is not merely to be blamed, dismissed or otherwise departmentally punished but he will have to be sentenced to 6 months rigorous imprisonment. That would be absurd. Instances may be multiplied. The object behind this Section 101 will really be frustrated, because the manager or occupier will not be found to accept the dubious benefit conferred on him by this section. The ordinary law is in his favour. The House will consider the general offences created by clause 92. It is said that if anyone contravenes any provisions of this Act he will be guilty of an offence. It has been recently found

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by the Privy Council that the word 'contravention' means that there is a criminal mind behind it. Without sufficient *mens rea* a man cannot be found guilty. So the ordinary law can hold a man guilty only if there is a criminal mind behind the act. Otherwise he could never be punished. So if he is prosecuted, if he finds that somebody else is really guilty, it is enough for him to indicate in cross-examination that another man is guilty or that he is himself not guilty or that the case is shrouded in doubt. In that case he will be acquitted. I submit that the clause 101 is absolutely misconceived. No manager or occupier will take advantage of it unless he is defended by a mad lawyer or unless the man named is a willing scape goat and is ready to plead guilty. During my long experience of one third of a century in criminal courts and dealing with prosecutions under the Factories Act I have never seen or heard anyone taking advantage of this provision. The desire of the House to find the occupier or manager guilty for anything consciously or willingly done by him or at his instance, will be frustrated unless he is generous enough to put his head into the noose and get himself automatically convicted through the provision of Section 101. The desire of the House to find him guilty for whatever offence committed in the factory, whether he is conscious of it or encourages it or connives at it or not will be signally frustrated. Section 101 will serve no useful purpose but will be used by the guilty by procuring the voluntary or collusive conviction of the innocent.

It is said that it has been copied from an earlier Act but I think the mistake should not be continued any further. There is the story that a small girl was told by her mother that she must obey her parents. The girl asked her mother who had told her so. The mother replied "I learnt it from my mother". "How did your mother learn it". was the next question of the little girl. The motbur replied "My mother learnt it from her mother". The little girl remained silent for sometime. The mother asked her what she was thinking about. The girl replied "I am curious to know who started the mischief originally." I submit there is someone here who started the mischief. In fact some draftsman in his over-enthusiasm originally introduced this provision and we are carrying it from Act to Act. I submit that this clause would be innocuous and would fail to get bold of the guilty, because he would not fall into the trap. Section 101 should be entirely omitted. I ask the Honourable Minister to consider it or consult some experienced lawyer like Pandit Thakur Das Bhargava. He will never advise his client to take advantage of this section and he will never do it and the accused by taking advantage of it will never be generous enough to allow himself to be convicted without any guilt on his part. I submit that this clause should be deleted.

Mr. Speaker: It seems to be the fear of the honourable member that an occupier or manager will find some scape goat to take the responsibility.

Mr. Nasiruddin Ahmad: It is just inviting him to find a soape-goat. It is somotbing liko the jail editor. An editor engages a man to go to jail on his bebalf for writing dangerous articles. The occupier or manager will have a paid servant to deputise for him in the criminal court and accept punishment.

Shri Krishna Chandra Sharma: Sir, I have put in an amendment to this clause. This clause is not only absurd but it is also unnecessary and offends against good conscience. Good conscience is the *sine qua non* of all laws. The Honourable Minister while opposing my amendment advocated a strange principle that in the case of factories the occupier or manager has taken the responsibility upon himself that no offence under the Act would be committed in his factory but that in tho case of a citizen, as such he takes no responsibility whatsoever that a murder would not be committed. He said that the analogy of murdor does not therefore hold good in the case of offences under the Factories

Act. May I ask respectfully on what basis does a state exist? Does not the sovereignty whether King or Parliament, or whatever the sovereign body is, stand up and say, "I stand here to protect you" and does not the citizen stand up, bow down and declare his loyalty and civil obedience to the law of the land? Here is the guarantee of a citizen not to commit a crime. 'A' gives as much a guarantee or takes as much a responsibility not to commit a murder of any other fellow citizen as a factory owner or a factory occupier or a factory manager does in the case of petty offences under the Factories Act. Whether this has found place in the previous Act or not, there is no gainsaying the fact that this clause offends against good conscience and it offends against the fundamentals of law. I may remind the House that it is very good to gather here and pass laws then to say "We are the representatives of the people; on their behalf we pass this law and therefore it is good law because it is sanctioned by the will or the consent of the people". Sir, ages have passed and people have suffered from the tyranny of the King. The obstinate will of a man whose word was law and that law was forced on the people or was carried under force. It does not matter which way one governs. If he forces his will obstinately, without any concern whatsoever to what is called good conscience, to what is called decency, without any regard to the fundamentals on which society is based—whether one man rules or the people are multiplied in hundreds or for the matter of that in thousands—what matters is that in framing a law you should look to the conscience of the people from time to time, you should look to the evolutionary growth of the human conscience and you should look to decency and principles and under which circumstances society is run, under which society obeys law and under which circumstances workers do work and produce wealth and the state prospers. This is the question and my respectful submission is that by giving assent to this sort of law you exercise not the consent of the people, not the willingness of the people behind you, not the power of the vote behind you, but the obstinate will of a tyrannical authority. It will go against you. It will not be an Act of the Legislature but it will be an act of tyranny.

You say that "A" is to be punished even if he proves that he tried to avoid the offence being committed but despite his attempt somebody else has committed the offence. And you say that if within three months that somebody else—"B"—is not to be found, then A has to be convicted. I may point out a salutary provision in the Criminal Procedure Code—Section 403. When a trial takes place in the case of an offence and the offece is tried once, it cannot be tried again. The judge calls upon a man, he pleads his innocence, the plea of innocence is accepted—that not A but another man B has committed the offence. A cannot be tried again after once his plea is accepted. And as I said before, it is the most demoralising thing in the world to ask a man to produce his fellow worker and say "This man has committed the offence; therefore hang him". The victor forces the man to betray his colleague and to produce another as his scape goat for the purpose of saving himself. Nothing is so demeaning in human life than to get saved at the cost of another man. Surely, this is not the way of a law but a brute way of dealing with things. There is nothing of civility, decency or soundness in a law that permits such state of affairs. In its own provision it is bad enough in the sense that it enables one to save oneself at the cost of another. That other man works under him, produces wealth for him and his activities are supervised and controlled by him. It is a thing which is demeaning and immoral.

Let me point out another thing. After once having given judgment that B has committed the crime and not A, you sit for three long months and after that you learn that B is not available. Then you say "Bring him or I will hang you". May I respectfully ask "Is this the way to legislate?" Does it do any good whatsoever; what would be the good of such a law and how would it work? Therefore, without appealing to passion, without appealing to sentiment,

[Shri Krishna Chandra Sharma]

I appeal to commonsense; I appeal to sound judgment; I appeal to equity and fairness; and I appeal to precedent. That is, the law has not found any precedent in any civilised society where industry is not to be born today or is of yesterday's birth but where industry has its predominance, where industry rules the people. I say that such a precedent does not exist anywhere else. If it existed here, it was because we were not old enough and we did not have enough of good conscience—whoever passed that law was devoid of good conscience. Therefore do not take your stand upon the fact that it found a place in the old Act. If it found a place in the old Act, many other things were done in the old time. We are not the people of that time. We have grown, and grown well. We are careful and we have sound judgment and reason and I appeal to you that this clause should be omitted. It does no good to anybody.

I shall refer you to the cases under the Defence of India Act. Take the case of possession of prejudicial document. What was the provision? It was laid down that the possession by itself would not be enough to convict a man, if a man could prove that he had no knowledge of the contents thereof that would be a sufficient defence. This was in the Defence of India Act. And what was that law made for? For the safety of the Empire, for the protection of millions of people and for the future of a generation here and the future of the posterity of the English people. If such a law can have a provision that in the case of possession of prejudicial document, if the accused could prove that though he was in possession of it yet he was not conscious of it—that he did not know the contents of the document—then that would constitute a sufficient defence, is not that provision enough in respect of a petty offence under the Factories Act? It does not matter practically because your Act will not go a long way. For, the owner knows well how to tackle the Magistrate. Magistrate will sentence him to a fine of Rs. 5 or something of that sort. Has a factory owner ever been sent to jail? Has any sentence of imprisonment ever been passed under the Factories Act? It is always a fine of Rs. 5. Rs. 10 or at the most Rs. 50. This is generally the case. So, rest assured that this particular clause which you want to enact, or the whole Factory Law itself, will not hit very hard the factory man because the factory man exercises political influence; he exercises social influence; he controls the district and the mofussal. There are so many ways for him to escape. Money and capital have grown into a powerful force now. Rest assured your law will not go a great deal to tell upon the factory man. Why I am fighting against this clause is because it offends against the fundamental principle of law. It offends against equity, it offends against justice and it offends against fairness. Therefore, I appeal to you, Sir, in the name of all that is sacred in law and in justice not to press it but to drop it.

3 P. M.

Shri Gopikrishna Vijayavargiya (Gwalior State): Sir, I have to suggest only one thing, and it is this: after all, this whole clause is not so absurd.

Previously there were no clauses about sanitation and other things, but now those things have been included, but it appears very anomalous that punishment should go to the occupier or some other man. I think some exemptions may be made in this, for example, about spitting, etc. So these offences may be differentiated and put into another category, and others such as security and other things put under a separate category. In this way the whole thing can be solved. But if it is so complicated then the Honourable Minister may hold it over for re-drafting.

The Honourable Shri Jagjivan Ram: Sir, I have nothing much to add. There is no question of inequity and things like that and nothing to indicate madness after independence.

Mr. Speaker: It appears there has been some serious misconception here. Of course it is not for me to explain, but the position appears to me to be clear. It is only legislating for presumption—nothing more than that, and no principles of law seem to have been seriously involved as the lawyer Members seem to suppose.

The question is:

"That Clause 101 stand part of the Bill."

The motion was adopted.

Clause 101 was added to the Bill.

Clauses 102 and 103 were added to the Bill.

Shri Krishna Chandra Sharma: I move:

"That in sub-clause (1) of clause 104 of the Bill, for the words 'opinion of the Court apparently', the words 'opinion of a certifying surgeon' be substituted."

My contention is that in the first place it is difficult for a lay man to judge the age of a boy. Generally the age in question would be 14 or 15 or 16 and it is very difficult to judge it for anybody much more so for a lay man. My objection is that a Magistrate, in the beginning of a case, should have no opinion whatsoever with regard to the age of a person.

Shri K. Santhanam: Even though there is a five-year old child?

Shri Krishna Chandra Sharma: No, no; my friend, I am sorry, has no experience of a court of law. An eight-year old child or a four-year old child will not come before the Court; it will come only if it is 14 or 15 or 16 and it is difficult to judge the age of a boy—whether it is 14, 15 or 16.

Mr. Speaker: Order, order. I do not know what the objection is, but "in the opinion of the Court" does not mean a Court "as a medical person", but opinion formed on the evidence recorded before the Court. I think the word "apparently" should very probably have been *prima facie*.

The Honourable Shri Jagjivan Ram: Yes, Sir.

Mr. Speaker: That seems to have been the idea. Therefore they may think of changing the word "apparently" into "*prima facie*".

The Honourable Shri Jagjivan Ram: That is the intention, Sir. "Apparently" means "*prima facie*".

Mr. Speaker: Well, it carries different meaning to some extent. But the Honourable Minister may consult the draftsman if he likes.

Shri Krishna Chandra Sharma: My objection is to the "opinion of the Court."

Mr. Speaker: If the expression "*prima facie*" is used, we as lawyers understand what it means; it means that the Court proceeds on certain evidence.

Shri Krishna Chandra Sharma: After some evidence.

Shri Ajit Prasad Jain: "Apparently" will mean "from the looks".

Mr. Speaker: So, I will put it to the Minister. I do not know what is the idea of the Government in this. Do they wish to leave it to the Court to decide merely by looking at the face of the person?

Shri K. Santhanam: This is intended where the Judge sees the person and obviously he appears a child; then the onus is shifted; it is not as if any conviction is made.

Mr. Speaker: The point is, how does the Judge decide? There may be some *prima facie* evidence in the case: suppose there is a birth certificate which may or may not be reliable or an affidavit of a person which may or may not be reliable. Then the Court *prima facie* is of opinion that the child is of a certain age.

The Honourable Shri Jagjivan Ram: *Prima facie* would be better.

Prof. N. G. Ranga (Madras: General): Some such thing has got to be there, otherwise how can a Judge ever possibly come and say, "This man is fifteen years old, this boy is fifteen years and that fourteen years"?

Mr. Speaker: "In the opinion of the Court *prima facie*" would have carried some judicial meaning about it, but I leave it to the Honourable Minister. It is entirely a concern of his and if he sees there is no objection, then it may be adopted; unless he wants to consult his draftsman.

Pandit Thakur Das Bhargava: This section is absolutely superfluous. In every case the prosecution must give some evidence before the Court before it can come to the conclusion that *prima facie* or otherwise the man is of such and such an age; then the burden shifts. If the boy says he is three years old, no Court will say fifteen. This is a useless section and you don't require it.

Mr. Speaker: But we might not go into it now.

The Honourable Shri Jagjivan Ram: "*Prima facie*" might be substituted.

Mr. Speaker: Does the honourable member press his amendment?

Shri Krishna Chandra Sharma: I have heard that for "apparently" "*prima facie*" has been substituted. My contention, Sir, is this. In a case, first the accused is called and the magistrate says, "This is the allegation". Then evidence comes in; when the evidence comes in, then the defence comes in. Where does the provision for opinion come in? There cannot be any opinion at all from the person of the Court. How can a Judge have any opinion? After all, the trial will be under the law.

Shri H. V. Kamath (C. P. and Berar: General): It is a *prima facie* opinion and not judgment of the Court

Mr. Speaker: That is what is meant. If those words are dropped, then a difficulty will arise as to who is to decide "*prima facie*".

Shri Krishna Chandra Sharma: It is the Court; the procedure in such cases is that a doctor is produced.

Mr. Speaker: The honourable member will see that putting the words "*prima facie*" will be meaningless if the words "opinion of the Court" are not there. Who is to say that *prima facie* such and such a thing exists? It is the opinion of the Court.

Shri Krishna Chandra Sharma: My contention is that it would be opinion of the Court, but *prima facie* would imply that there is some evidence.

Mr. Speaker: Therefore, I am asking the honourable member whether after the substitution by the words "*prima facie*", he persists in putting this amendment to the House?

Shri Krishna Chandra Sharma: No, Sir.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That in sub-clause (1) of clause 104 of the Bill, for the word 'apparently' the word '*prima facie*', be substituted."

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 104 of the Bill for the word 'apparently' occurring in sub-clause (1) the words '*prima facie*' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 104, as amended, stand part of the Bill."

The motion was adopted.

Clause 104, as amended, was added to the Bill.

Shri Prabhu Dayal Himatsingka: What about the language of this clause, Sir? Is it quite all right? The clause says

"No court shall take cognizance of any offence under this Act except by, or with the previous sanction in writing of, an Inspector,"

Now, if you remove the alternative clause "or with the previous sanction in writing of", the clause reads:

"No court shall take cognizance of any offence under this Act except by an Inspector."

And now what exactly do we mean by saying "except by an Inspector"? It should be either "except on the complaint of an Inspector" or something similar to that.

Shri K. Santhanam: The honourable member is right. "except on complaint by an Inspector" it should be.

Shri Prabhu Dayal Himatsingka: Sir, I move:

"That in sub-clause (1) of clause 105 of the Bill, after the word 'except the words 'on complaint', be inserted."

Mr. Speaker: So, some words are missing. I shall then put the amendment. The question is:

"That in sub-clause (1) of clause 105 of the Bill, the words 'on complaint' be inserted between the words 'except' and 'by'."

The motion was adopted.

Mr. Speaker: The question is

"That clause 105, as amended, stand part of the Bill."

The motion was adopted.

Clause 105, as amended, was added to the Bill.

Clause 106 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I beg to move:

"That in sub-clause (2) of clause 107 of the Bill, for the words 'the other by such body representing the industry', the following words be substituted:

'one each by such bodies representing the industry and labour.'"

The intention of this clause is to provide assessors for the aid of the appellate authority. So far one assessor could be appointed by the industry and the other by the Government. The amendment which I have proposed provides for the appointment of two assessors in addition to the one appointed by the Government. One of those two assessors will be appointed by the industry and another by labour. I think the suggestion is fair and it does justice both to labour and industry. I commend it for the acceptance of the House.

Prof. Shibban Lal Saksena: Sir, I support it.

Mr. Speaker: I am not yet quite clear about the meaning of the amendment. Unless I am mistaken, it will mean that there will be as many representatives of industry and labour as there are sections of industry and labour, instead of there being only two assessors. The wording suggested is: "*one each by such bodies representing the industry and labour*". That means that there will be as many assessors as there are *bodies*.

Shri Prabhu Dayal Himatsingka: Even now the clause as it stands does not specify any limitation as to the number of assessors to be appointed.

Mr. Speaker: The limitation seems to be inherent in the words: "hear the appeal with the aid of assessors, *one* of whom shall be appointed by the appellate authority and the *other* by such body"—that clearly means two assessors.

Shri Prabhu Dayal Himatsingka: But this amendment will make it three or more than three.

Mr. Speaker: That is what I am pointing out. It will not make it only three or more. It may make it even a dozen or more. May I know from the honourable member what is the meaning of the word "one each by such bodies"?

Shri Ajit Prasad Jain: That refers to labour and industry.

Mr. Speaker: That means two.

Shri Ajit Prasad Jain: Including the Government three.

Mr. Speaker: Yes. The honourable member's idea seems to be to give representation to labour. Is the amendment clear to the Honourable Minister?

Shri K. Santhanam: Yes, Sir. It is an inappropriate amendment, because let us see how the assessors come in. There is a case against the manager. He is accused. There is an appeal—be on one side and Government on one side. Now where does labour come in? If labour is brought in, there will be unnecessary confusion, complication and ill-will between management and labour. I do not think he is serving the cause of labour by this amendment.

Prof. Shibban Lal Saksena: Sir, I do not agree with my learned friend Mr. Santhanam's argument. Here is an industrialist prosecuted for violating the Factory Act and assessors are appointed.

Shri K. Santhanam: If labour should be represented, then Government should be left out.

Prof. Shibban Lal Saksena: Assessors are appointed. If the industrialist is to appoint an assessor, then I do not know why the labour should be deprived of the benefit of this privilege. They must surely have somebody to say whether it is proper or not. Government and industry having appointed an assessor each, one assessor should also be appointed by the labour. I therefore think this amendment is very proper and should be accepted.

Shri K. Santhanam: Then the appellate authority must go.

Prof. Shibban Lal Saksena: No. If you want only the appellate authority and no assessor, then you should drop all the assessors. If you want assessors, let there be three—one to represent Government, one to represent labour interests and one to represent industrial interests.

Shri K. Santhanam: Why should Government have any assessor at all? It is itself the appellate authority.

Prof. Shibban Lal Saksena: Anyhow, I think labour must at least be allowed to have one assessor.

Mr. Speaker: Is Mr. Jain particular about his amendment?

Shri Ajit Prasad Jain: I am rather particular, because I have seen the working of the Industrial Disputes Court in U.P. who are working with the aid of assessor. I have found that the assessor representing labour is generally helpful to the labour. I think that just as in the case of the industry it is compulsory that it should be represented by an assessor, so in the case of lahour also there should be someone to speak for them.

Mr. Speaker: The case contemplated here seems to be different. It is not the settlement of an industrial dispute. It is a distinct allegation of violation of a particular provision and there is a sort of criminal trial. The point will not be about the interests of labour or otherwise: the point will be whether the accused is guilty or not. That is not a case of an industrial dispute. The principle seems to be that the person who is accused should better be declared guilty by people of his own class rather than by only an independent court—

something like trial by jury, just to give him a sop that, after all there is an assessor belonging to his own class. What has the Honourable Minister got to say?

The Honourable Shri Jagjivan Ram: Sir, I have thought over this amendment and I find there are complications in it. There may be difficulty in nominating the representatives of the workers in the industry concerned. I hope therefore that my friend will not press it.

Mr. Speaker: Does he press his amendment?

Shri Ajit Prasad Jain: I do not press, Sir,

Mr. Speaker: Then I need not put it to the House.

Shri Prabhu Dayal Himatsingka: As regards clause 107 will you not suggest the word 'another' before "by such body representing....."

Mr. Speaker: That is not necessary; the wording "one by the appellate authority and the other by such body", is all right.

The question is:

"That Clause 107 stand part of the Bill."

The motion was adopted.

Clause 107 was added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I beg to move:

"That in sub-clause (1) of clause 108 of the Bill all the words occurring after the words 'certifying surgeon', be omitted."

Sir, this is necessary for the purpose of the next amendment which I propose to move.

Mr. Speaker: He may move the next amendment also.

The Honourable Shri Jagjivan Ram: Sir, I beg to move:

"That in sub-clause (2) of clause 108 of the Bill, after the words 'factory shall be', the words 'in English and in a language understood by the majority of the workers in the factory, and shall be' be inserted."

Sir, the intention of this amendment is that all the notices that are required to be displayed under this Act and other notices that may be displayed should be in English and also in a language which is understood by the majority of the workers.

Shri Prabhu Dayal Himatsingka: Sir, the amendment should be in the second line. The words "be" and "displayed" occur in two places. This amendment should be in the second line.

Shri K. Santhanam: Yes; in the second line.

Mr. Speaker: The question is:

(i) "That in sub-clause (1) of clause 108 of the Bill all the words occurring after the words 'certifying surgeon', be omitted." and

(ii) "That in sub-clause (2) of clause 108 of the Bill after the words 'factory shall be', the words 'in English and in a language understood by the majority of the workers in the factory, and shall be', be inserted."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 108, as amended, stand part of the Bill."

The motion was adopted.

Clause 108, as amended, was added to the Bill.

Clauses 109 to 114 were added to the Bill.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in clause 115 of the Bill, after the words 'official Gazette', the words 'within three months of the passing of this Act', be inserted."

Sir, my experience is that even though this House passes Acts, the rules are not made under the Acts for a long time. I have pointed out during this debate that although on the 21st of November 1947 we passed the Trade Union Amendment Act, yet, the rules have not been made, although ten months have passed. The same is the case with the Act relating to the Dock Workers and the scheme has not been put into force so far. Therefore, I want that this Act should become applicable as soon as possible. In section 1 it is stated that it shall come into force on the 1st day of April 1949; I think that date is too late. When we have passed this Act, it should not be delayed for such a long time; the date should be 1st of January 1949. The rules should be made within three months of the passing of this Act. In order to see that the officials of the department do not sleep over the Act, there should be a provision in this Bill that the rules should be made within three months. I would also request that in clause 1 the date should be put in as the 1st of January 1949. I hope the Honourable Minister will see that this provision would help his department to see that the rules are made as soon as possible. Otherwise, this Act will not bring any benefit to the workers. Sir, I move.

Mr. Speaker: Amendment moved.

"That in clause 115 of the Bill, after the words 'official Gazette', the words 'within three months of the passing of this Act', be inserted."

The Honourable Shri Jagjivan Ram: Sir, I wish it were possible to accept the amendment. As my honourable friend is aware, most of the rules under this Act are to be framed by the provincial Governments. We considered this question in the Select Committee as well and the least time that would be necessary for this purpose will be six months. After considering all these points, we fixed the date 1st April 1949 for the Act to come into force, and that is the least period that is necessary for all the formalities that are required under this Act. I do not think I can accept the amendment.

Shri Prabhu Dayal Himatsingka: Moreover, Sir, the rules can be framed from time to time. It is not obligatory that all the rules should be framed in the first instance. This amendment would make it absurd to require that all the rules should be framed all at once.

Prof. Shibban Lal Saksena: In view of the assurance given by the Honourable Minister, I wish to withdraw the amendment.

Mr. Speaker: In view of the explanation, not assurance. Has the honourable member leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Mr. Speaker: The question is:

"That clause 115 stand part of the Bill."

The motion was adopted.

Clause 115 was added to the Bill.

Clause 116 was added to the Bill.

Shri Ajit Prasad Jain: Sir, I do not propose to move the amendment, but I want to make some observations with regard to this clause. This clause gives complete protection for anything done in good faith or intended to be done in good faith. We have adopted a clause only a short while ago whereby we have fixed a responsibility upon the manager or occupier, constructively and rigidly.

But, here a very broad proposition has been laid odwn, that no person shall be prosecuted and no suit or other legal proceedings shall be lunched against him for anything done in good faith. My feeling is that this Bill does not show the amount of clarity that is necessary for a legislation of this kind. What exactly the clause will mean is not clear. (*An Honourable Member*: "It applies to Government servants.") It does not say, Government servants. I gave notice of an amendment to that effect, but I found that it was not acceptable. I think this clause lays down a very broad proposition. I am doubtful if almost any man will not escape prosecution and conviction if he can show good faith, no matter whatever offence he may have committed under this Act. I shall wait for the explanation of the Honourable Minister as to what exactly this clause means and how it will apply.

Mr. Speaker: It is the usual indemnity clause.

Shri Ajit Prasad Jain: That applies to public servants. Here, the wording is, "any person".

Mr. Speaker: The point seems to be, you are going to have assessors here: do you not give protection to the assessors?

Shri Ajit Prasad Jain: It should apply to a limited class of persons and not to every person. This means that an occupier or a manager of a factory or the owner of some premises, only if he shows that he did a thing in good faith, will not be prosecuted and no suit or other proceedings will be instituted against him.

Shri Krishna Chandra Sharma: If the words 'public servant' are inserted it will be all right. If the assessor is a public servant.....

Mr. Speaker: But he might not be. It appears to give indemnity to people who have to carry out the provisions of this Act in an official or other capacity.

Shri Ajit Prasad Jain: The phrase 'any person' is not confined to an official or assessor or to a person performing duty in a public capacity. It will include anybody and everybody and I think the proposition as laid down in this clause is far too wide.

The Honourable Shri Jagjivan Ram: The intention, as the Chair has explained, is to include assessors and others who may be charged with the carrying out of the Act.

Shri Ajit Prasad Jain: Your intention does not matter; it is the language that counts. The phrase 'any person' would include any owner or occupier or any one else, who has committed an offence, provided he has done it in good faith.

Pandit Thakur Das Bhargava: This is one of the general exceptions that is found in the Indian Penal Code and many other Acts and applies to a public servant or any other person who is made immune from prosecution if he acts in a certain manner. I claim that any person who acts in good faith without *mens rea* should be free from penal consequences. There is not much difference in the Indian law as well as the law on which Indian law is based between a public servant and an ordinary man. It is not as if a public servant should be protected and another person should not be protected. As it is I do not see any objection in it.

Shri Ajit Prasad Jain: Please see clause 101. Does it or does it not take out the element of *mens rea*?

Mr. Nazirudddin Ahmad: *Mens rea* will not apply. This clause does not apply to a crime because no crime can be committed in good faith that would be a contradiction of terms. This applies to acts done under this law. It may be that the occupier or manager would have to do certain things under this Act or some officers employed by Government would have to do certain acts,—to go into some houses and take evidence or seize some articles, etc. If he acts

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in good faith, he should surely be protected. It does not at all support the crime. But there is a lurking suspicion indicated about clause 101 that if a man does something in good faith it will not amount to a crime at all. That may be argued—I do not know what view a Court of law will take. I should like that this clause should be retained in order to protect a man having done anything in good faith, whether official or not. This is an usual provision which is found in many Acts. It is necessary protection for people acting in good faith so that they may not be sued or prosecuted.

Mr. Speaker: Obviously this is the usual protection given and I think it is found in a large number of Acts.

The question is:

"That clause 117 stand part of the Bill."

The motion was adopted.

Clause 117 was added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That after clause 117 of the Bill, the following new clause 118 be inserted and the subsequently clauses be renumbered accordingly:

'118. *Restriction on disclosure of information.*—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.'"

This amendment has become necessary as we have provided for licenses to be taken for the construction or extension of factories and the factory owners will have to submit plans and specifications of their factories. Therefore many things will come to the knowledge of the Inspectors; and under the Official Secrets Acts so long as the Inspector holds the post he is required not to disclose this information. But he may resign and disclose these secrets. Therefore this provision is necessary so that he may not disclose the secrets gained while he is in Government service.

Mr. Speaker: Amendment moved:

"That after clause 117 of the Bill, the following new clause 118 be inserted and the subsequent clauses be renumbered accordingly:

'118. *Restriction on disclosure of information.*—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in subsection (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of subsection (1) he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.'"

Shri H. V. Kamath: Sir, I am afraid this will present some difficulties in application. Sub-clause (1) says that an Inspector in service or out of it will not disclose information, etc. I wonder how after retirement from service he will be bound by any law or rule in force on this subject. Sub-clause (3) says that any Inspector contravening the provisions of sub-section (1) will be punishable. But after retirement he is no longer an Inspector; and if he discloses a secret then I do not see how he can be penalised. It is the 'Inspector' who is liable to be punished according to sub-clause (3); but after retirement he is no longer an 'Inspector'. So the clause will be difficult to enforce.

The Honourable Shri Jagjivan Ram: I have nothing to say.

Shri H. V. Kamath: My point was that an Inspector after resigning or retiring from service is no longer an Inspector. Under sub-clause (3) the Inspector is only to be prosecuted and not the ex-Inspector.

Mr. Speaker: The section read as a whole will make the position clear. In sub-clause (3) the word "Inspector" also means an Inspector even if he is no longer in service.

The question is:

"That after clause 117 of the Bill, the following new clause 118 be inserted and the subsequent clauses be renumbered accordingly:

'118. *Restriction on disclosure of information.*—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.'"

The motion was adopted.

New Clause 118 was added to the Bill.

Mr. Speaker: The question is:

"That clause 118 (renumbered as Clause 119) stand part of the Bill."

The motion was adopted.

Clause 118 (renumbered as Clause 119) was added to the Bill.

Clause 119 (renumbered as Clause 120) was added to the Bill.

Shri H. V. Kamath: Sir, I move:

"That in item 6 of the Schedule to the Bill, for the word 'Arsenical', the word 'Arsenic' be substituted."

My amendment is the smallest and probably the simplest that the world has ever seen or known, and I hope.....

The Honourable Shri Jagjivan Ram: Very poisonous, I think!

Shri H. V. Kamath: Sir, the Oxford Dictionary, whose authority my honourable friend quoted the other day, will not let me down this time.

Mr. Speaker: Amendment moved:

"That in item 6 of the Schedule to the Bill, for the word 'Arsenical', the word 'Arsenic' be substituted."

[Mr. Speaker]

is it very necessary? The amendment restricts the scope of poison. Why not extend it to other materials outside arsenic?

Shri H. V. Kamath: I think the scientific term is 'arsenic' and not 'arsenical'.

The Honourable Shri Jagjivan Ram: There are three adjectives given in the dictionary: 'arsenic', 'arsenical', and 'arsenics'. If my friend has a particular liking for 'arsenic', I have no objection.

Mr. Speaker: The question is:

"That in item 6 of the Schedule to the Bill, for the word 'Arsenical', the word 'Arsenic' be substituted."

The motion was adopted.

Mr. Speaker: The question is:

"That the Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Shri H. V. Kamath: Sir, I move:

"That in sub-clause (1) of clause 1 of the Bill, for the words 'the Factories Act', the words 'the Factory Labour Act' be substituted."

Because in the Preamble it is said "Whereas it is expedient to consolidate and amend the law regulating labour in factories" I thought it would be more appropriate to describe this Act as the Factory Labour Act, because we are going to regulate labour in factories. Sir, I move.

Mr. Speaker: Before I put it, I may inform the honourable member that it is open to him to move his amendment, but the clauses adopted by the House doprovide for all sorts of amenities to labour and the special Factories Act will cover all that: for example, provision regarding factories in respect of conditions of labour, amenities and all these are covered.

Shri H. V. Kamath: My object is to bring this in line with the Preamble.

Mr. Nasiruddin Ahmad: This Bill also repeals the Factories Act, as will appear from the table attached to the Bill. The Factories Act of 1934 is also repealed. So the contents of the Factories Act as well as matters affecting labour are all incorporated here. Therefore the name "Factories Act" will be a more comprehensive and more appropriate name. I also thought of an amendment but having seen this I changed my opinion.

Mr. Speaker: So here is an authority. Does the honourable member wish to press his amendment?

Shri H. V. Kamath: I do not want to press it.

Mr. Speaker: So I do not put it to the House.

Prof. Shibban Lal Saksena: The Honourable Minister has said that it will take six months before the provisions of this Bill come into force. I think it is possible for the various provincial Governments to put this Act into effect by 1st January 1949. Once this Act is passed the workers will expect the benefits of it and delay in giving its benefits to them will make them angry. This will be specially so in sugar factories as their season closes in March. So I desire that the fruits of our labour should be available to labour from the 1st January 1949. The Honourable Minister himself may amend clause 1 to change 1st April into 1st January 1949. I think that is very essential because this is a very fundamental Act and it is giving important concessions which will help in maintaining industrial peace.

Mr. Speaker: His request is that if the Honourable the Minister is agreeable the date 1st day of April 1949 should be changed into the 1st day of January 1949—just to expedite it by three months.

Shri Prabhu Dayal Himatsingka: Is it not that 1st April is better than 1st January?

Mr. Speaker: Is the honourable member agreeable? As Mr. Himatsingka has pointed out, it is better to start it from 1st April!

Mr. Nasiruddin Ahmad: If this Act is meant as a huge joke, then this date 1st April is suitable!

Mr. Speaker: The question is:

"That Clause 1 stand part of the Bill."

The motion was adopted

Clause 1 was added to the Bill.

Mr. Speaker: The question is:

"That the Title and the Preamble stand part of the Bill."

The motion was adopted.

The Title and the Preamble were added to the Bill.

The Honourable Shri Jagjivan Ram: Sir, I move:

"That the Bill, as amended, be passed."

I just want to take this opportunity to express my thanks to the honourable members of this House who have whole heartedly co-operated with me in expediting the passage of the various clauses of the Bill.

At this stage Mr. Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Panel of Chairmen).

I would make special mention of my friend Prof. Shibban Lal Saksena who has served both purpose of expressing his views in extenso thereby making it known to the working classes of the country that he is the one solitary champion of the working classes left in this country. On the other hand, he has been reasonable enough to see the trend of the House and to utilise his common sense in withdrawing most of his amendments.

One of the members of this House remarked that this Bill is a Charter of Rights to the working classes. Personally I do not claim that it is so. But certainly I do claim that it contains some important items of such a Charter of Rights. The Factories Bill and State Insurance Bill both taken together constitute a major portion of the charter of rights of the working classes and if I get the co-operation of this House in the way I have been getting I hope that it will not be long when we will be laying down a complete charter of rights of the working classes.

Sir, I do not want to take the time of the House at this stage. I wish to express once more my thankfulness to the honourable members of the House for extending their full co-operation in the passage of this Bill.

Mr. Chairman: Motion moved:

"That the Bill, as amended, be passed."

Mr. Nasiruddin Ahmad: Sir, I desire to congratulate the Honourable Minister in having succeeded in eluding the members of the House in their attempt to effect some improvements. Prof. Saksena was really indefatigable: when others had absolutely abandoned the attempt he persisted but the Honourable Minister has not accepted a single amendment of his.

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When dealing with a Bill like this and other Bills which have come before the House one cannot forget the fact that the drafting of Bills for a long time has been of the most unsatisfactory character, and is such that it is difficult to improve the Bills on the floor of the House. Again one cannot fail to notice that some amendments proposed in the House were extremely good but they could not for certain reasons be accepted on the floor of the House. I have a feeling that Honourable Ministers feel that a kind of prestige is somehow involved in this. I have found that when amendments are suggested to the Honourable Minister privately they are extremely willing to accept them but when they are moved on the floor of the House they are unwilling to accept them. That tendency has become very clear. In this case I had suggested a long list of amendments in the Select Committee stage and the Honourable Minister was kind enough to accept them but I should point out that the errors which I attempted to point out were of a routine character, such as spelling mistakes, use of capital and small letters, punctuation mistakes and so on. When I pointed out some of these errors outside the House they were accepted but similar errors which then escaped my eyes also escaped the eyes of the draftsman. They have again been incorporated in some of the amendments and they have been left to the draftsmen. This shows a lamentable state of affairs. Are these mistakes which were pointed out on the floor of the House and which are of a drafting nature so much above the capacity of the draftsmen that they could not correct them? It shows that the draftsmen are not sufficiently industrious.

Then again the question of proof reading is very important. One cannot fail to see that Bills are badly printed. It is no use blaming the printers for this. There is after all such a thing as proof-reading. Printers always make peculiar mistakes and therefore careful proof-reading is essential. Letters are inverted, words drop out, lines are not in proper alignment. These things are very common. I submit that the resources of Government should be ample enough to engage some one to do the job properly. Some one should be held responsible for their job.

Then again one important aspect of this Bill is that with regard to the rule-making power the draftsman became tired of the whole business. There are here a large number of places where rule making power is given, and it is the universal practice to collect them together in one section and give a list. Yet in the case of this Bill possibly the draftsman was overworked and he simply adds a few lines that the Provincial Government should have the power to make rules, as in clause 112. It consists of only four lines and the usual sub-clause giving a detailed list of the various rule making powers to make it convenient for reference has been entirely absent in this Bill. It shows some amount of slovenliness or habitual carelessness and the members are tired of pointing them out. Instead of improving, the thing goes on in the usual merry fashion and members are often blamed for pointing out these small errors. If the errors are pointed out it should not be resented. They are meant to be warnings for improvement but the improvement is never maintained or attained. In these circumstances the members have a genuine grievance and they are entitled to a better drafting service from . . . . . .

Mr. B. K. Sidhva (C. P. and Berar: General): Are you discussing the drafting of the Bill, which is now complete?

Mr. Naziruddin Ahmad: I am discussing the Bill and I believe the honourable member will recognise that the drafting of a Bill is part of the Bill. If one writes a letter to his friend or his wife one can indulge in bad draftsmanship.

Prof. N. G. Ranga: Question. Love and affection will excuse such faults. But in drawing up a statute the House is entitled to the best kind of draftsmanship. There should be nothing like second rate draftsmanship. The draftsmanship should be absolutely faultless and even elegant and the House is entitled to this service. After all the members of the Select Com-

mittee cannot go through the matter of drafting and punctuations. (*Shri H. V. Kamath*: *What are you for?*) Their attention is naturally and legitimately directed towards more important matters. It is in these circumstances that members of the Select Committee are often blamed for not looking into these things. It is not their business to do so. They have a right to expect faultless draftsmanship and comments have been frequently made in this respect, but with what effect the House known. (*Prof. N. G. Ranga*: *No improvement.*) No improvement as a distinguished honourable member points out. How long can we go on doing the business of the draftsman in this House?

Mr. Chairman: May I inform the honourable member that he has been very eloquent on this point and already taken too much time? I would suggest to him to deal with the other points.

Mr. Nasiruddin Ahmad: Sir, I shall finish at once. One honourable member of this House, Babu Ram Narayan Singh, on this subject once pointed out that the draftsmen will take the pay and the members will have to do the drafting. That is more or less the position. It is very unjust. I think that this state of affairs should be remedied. Honourable members of this House deserve a better service from our draftsmen.

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Shri B. Das (Orissa: General): Sir, I congratulate the Honourable the Labour Minister and this House for consolidating all the factory laws into one Act. I would not sing the swan-song of those on whose behalf I very often speak in this House that we are squealing. We are not squealing! We welcome this consolidated Act as it will help the employers and the lawyers' profession. They will not have to look in future into several factory laws; they will look into one consolidated Act.

Those who spoke in the House on behalf of labour spoke all the time with a sense of mistrust and malice against the employers class. I am pained that the House is not getting settled down and trying to examine Bills in their proper perspective. At times I felt that if I were in the place of the Honourable Minister I would have said *et tu Brute* to the various remarks that fell from the various socialist speakers of the House. None of them appreciated the extent to which the Honourable Minister has gone in consolidating the Bill and in trying to give labour all facilities. I do not separate the Honourable Minister from me, from the employer, from the official class of the factories and from the labour class. We are all one because he and I are committed to that splendid Resolution at the Industrial Conference. It is no use thinking of giving labour more facilities like spittoons which the Select Committee have provided without thinking of "production". And India cannot survive unless the production in India is raised and unless there is co-operation between labour and industrialists. I tried to listen to my honourable friend the Labour Minister and found he just touched the word 'production'. But he did not tell us that since that Conference he has been in closer touch with the various labour leaders that are present in the House or outside and that he has got their assurance that they would co-operate with the Government and the industrialists for larger production so that the battle of inflation may be fought properly in this country. I hope that when my labour friends rise they will say how they are going to stop inflation in this country—not by demanding more rest houses and spittoons or less working hours but by co operating with Government and industries so that we will be able to tide over the great tragedy that is coming over us and which will soon engulf us. I ask the plain question of my labour friends, why this mistrust? At every stage the employer is thought as not being prepared to give the little comforts in life to the worker. Why not examine it from the practical point of view? He is a human being. We are all human beings and we are trying to work out the problems according to our way of life. All of us do not live in Bombay and Calcutta as does my honourable lady friend from Calcutta. When I said 'why

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punish the labourer because he could not spit in the spittoon provided in some corner of the factory?'—I raised the issue that we come from different groups of society and every Province has got its own standard of living—my lady friend got annoyed. She thinks that Bombay and Calcutta constitute the whole of India and everybody would carry out the command. I would ask my lady friend from Calcutta whether she would like that every worker should be fined five rupees and would also lose two days salary for being absent from work to attend the court of enquiry. I do not think my lady friend has realised that no provision is made in the Bill for summary trial in the factory itself—whether the punishment to be awarded is one which Professor Shibban Lal Saksena wanted or it will be just a warning.

I have my difference with my honourable friend the Minister for Labour. In every piece of legislation that he has introduced in this House, whether through his own examination or through the inspiration of the I.L.O. to which place we send a large number of representatives who return with high fangled ideas—and the Government goes on legislating more ameliorative measures in respect of labour conditions which even the European countries do not observe—he is placing a heavier financial burden on the Provinces. And my honourable friend Professor Shibban Lal Saksena always says 'Do it quickly'. If everything is to be done quickly, my honourable friend the Minister for Labour will employ more Secretaries and more Deputy Secretaries and Officers to expedite action on various legislations. Then we will have to face inflation and face a drastic economic cut everywhere in respect of which matter one understands that the Cabinet is getting alive to the fact that the country is facing a grave crisis and there should be no new recruitment or employment. If that be so, let us be realists. I want that labour should be satisfied. But I do not want that labour should live same standard of life as they live in Switzerland; they should fit into our national economy, into our national social condition of life, and not—as my honourable lady friend from Bengal desires—that they should all live in Calcutta.

Then I want to know from the Honourable the Labour Minister how he is going to train the Factory Inspectors. He has got the Chief Inspector and half a dozen more advisers under him. And every Province has a Factory Inspector. How is he going to co-ordinate the activities of the various Factory Inspectors so that they understand the implications of these labour legislations and try to work it for the betterment of the conditions of labour and for better production in India. My impression of the Factory Inspectors is that they are abettors of strikes, they do not understand the Acts and they behave as bureaucrats. Whether they side with capital or labour I am not concerned. But I think that we must create conditions whereby the Factory Inspectors understand Factory laws and the various pieces of labour legislation and implement them in the spirit the ultimate goal of which was defined in the Tripartite Industrial Conference, namely, that there should be more production. For the last four months no labour leader has said anywhere in India that it is his desire and it is his bounden duty to see that there should be greater production in India.

Sir, I would like to close my observations with one word about the draftsman and his mistakes about which my honourable friend Mr. Naziruddin Ahmad referred so much. (An honourable member: He is a specialist). Of course, he is a specialist in draftsmanship. But one thing struck me. If there is something wrong with the draftsmen of the Government of India, that shows that the class of lawyers, to which my friend belongs, has deteriorated. Because, the draftsman comes from the lawyer class. If the lawyer draftsmen of the Government of India have failed to satisfy my friend with regard to commas, semi-colons or articles, I can only say that the lawyers have deteriorated. (*Mr. Naziruddin Ahmad: It is the unsuccessful lawyers that seek Government*

jobs.). I think we should not mind the words, commas and fullstops. We should look into the substance. Speaking on substance, I welcome the new consolidated factories measure and I do hope my friend will give me the assurance that the Factory Inspectors will be human enough to work this Act and the labour leaders will also give me their assurance that they stand for greater production in India and not for strikes and slow downs.

Babu Ramnarayan Singh (Bihar: General): Sir, I welcome the measure and congratulate my honourable friend Babu Jagjivan Ram, the Labour Minister, on the successful and polite way in which he has piloted the Bill. Sir, he is my old friend and colleague. I am proud of the achievements with which his honest endeavour is daily crowned. (Hear, hear). But, Sir, in questions of labour matters, I am afraid it appears to me that there is too much law and too little good. I have long been in this Central Assembly. I have seen that so far as legislation is concerned, we are not behind any country in the world, (Hear, hear),—rather, we are much ahead of them. But so far as the actual good to the labour is concerned, Sir, we will find that we are far, far behind any country in the world.

Whenever—and I am talking of the old days also—whenever I have seen any question being discussed (*The Honourable Shri Jagjivan Ram: Old days only, I think?*) No, no. I think that is continuing.

Whenever the labour question was being discussed, tears were shed. Had they been actual tears, I think the Assembly hall would have been flooded by now! (*An Honourable Member: They were all crocodile tears?*) There is no doubt about it.

But, Sir, I sound a note of warning with the remarks I have made, and I request my honourable friend Babu Jagjivan Ram that having passed this measure he should transfer his capital from Delhi to the labour centres—although moving centres—sometimes at Jharia, sometimes at Jamshedpur and so on and so forth. He should stay there for some time and should see the condition of labour there. I know he knows it, I know he has seen it, but now having passed this factories law, he should see that things are actually done for the good of the labour.

With this remark, I should remind the House and the Honourable the Labour Minister that we have been talking of industrial labour whose number I think is something like 85 lakhs or so, but what about the millions and millions of agricultural labour for whom neither any crocodile tears are shed in this House nor any legislation taken up by the Government or by the Government representatives, the Labour Ministry? I think we are doing a wrong to the agricultural labour as well as to the country as a whole.

I am not going to take much of the time of the House on this matter, but so far as drafting is concerned I entirely agree with my friend Mr. Naziruddin Ahmad. I said once before also and repeat: Well, I do not understand it; so many mistakes are pointed out in this House and the draftsmen are not being dismissed? Well, I wonder why so much carelessness is done in the offices of the Government of India and no steps are being taken. I think it is disgraceful. I think the drafting should be so beautifully and correctly done that even a comma should not be given anywhere by mistake. They are so highly paid officers and so highly paid staff. If they will commit mistakes, then what are they paid for?

With these words, I again welcome the measure and congratulate my friend Babu Jagjivan Ram.

Prof. Shibban Lal Saksena: Sir, although I have been trying to move amendments after amendments knowing full well that the Honourable Minister is unwilling to accept them, still I thought it my duty to do so, so that when he comes with a new Bill in future it should cover the suggestions I have made.

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I want to tell him that when we are independent we do expect that we shall have a labour legislation which will be in line with the most progressive countries in the world. Labour movement in this country is divided. There is the A.I.T.U.C., there is I.N.T.U.C. there is the Socialist Hind Mazdoor Panchayat and there are others. I talked to Mr. G. L. Nanda of the I.N.T.U.C.; he said he did not want a capitalist India but wanted in India something like the Labour Government in Britain. I talked with Mr. N. M. Joshi also and he said that he stood for demonstratic socialism as exists today in Britain. And Shri Jai Prakash Narayan goes on saying the same thing throughout the country. So the leaders of all the three Trade Union Congresses cherish the British Trade Union ideal. But Sir, when yesterday or day before yesterday I was moving amendments to a clause seeking to substitute registered and recognised trade unions for Works Committees, the Honourable Minister vehemently opposed it; in fact, he brought forward strange arguments which hardly did him credit. In fact, I personally think the whole system of Works Committees is a very obnoxious system. It should not have been introduced at all. I may read out the report of the British T.U.C. and show what they say about these Works Committees and Joint Boards. It is contained in a paragraph in yesterday's *Statesman*. This is what they say:

"Trade Union chiefs have rejected the suggestion that Britain's nationalised industries should be controlled by joint boards representing equally trade unions and management.

The main reason—fear that their independence would be in danger—is explained in the annual report of the Trade Unions Congress General Council issued today. The report will come before the 800 delegates, representing nearly 8 million who will attend this year's Congress opening at the seaside resort of Margate on September 6.

The joint boards proposal came up in debate at last year's Congress and since then has been investigated by the Economic Committee of the General Council.

The Committee report expresses the view that joint administrative boards would destroy the independence the unions at present have from the executive authority of the nationalised industries. The unions would be compromised in their relations with the public boards and also their own members.

'Trade unionists elected or appointed to serve on a public board, but still owing ultimate responsibility to the Union, would be in an embrassing position, unsatisfactory to themselves, to the board, and to the work people concerned,' the Committee states."

Prof. N. G. Ranga: What is their conclusion? Therefore . . . . . .

Prof. Shibban Lal Saksena: Therefore they do not want joint boards which is their name for our Works Committees.

Prof. N. G. Ranga: The Board should be managed by the Government itself?

Prof. Shibban Lal Saksena: They say that in the nationalised industries there should be regularly formed trade unions and these unions should have full power of bargaining with the nationalised management. The nationalised industry will have their management and the unions will have their own executives which will bargain with the management for proper conditions of work and service.

The Honourable Shri Jagjivan Ram: And not the workers?

Prof. N. G. Ranga: Neither the unions, nor the workers. It will only be the managers.

Prof. Shibban Lal Saksena: Unions represent the workers, and workers alone.

The Honourable Shri Jagjivan Ram: And Works Committees—are they also of Managers?

Prof. Shibban Lal Saksena: Works Committees are formed of management and workers in equal proportion. The British Trade Union Congress has rejected

proposal to form such Committees or Joint Boards. So after one year's study and consideration, 80 lakhs of workers of England have rejected this proposal even in nationalised industries. And now that all the great labour parties here want that we should have something of the kind of the Socialist Government in England, I think we should take a warning from the considered opinion of the Trade Union Congress in England. My own experience of the Works Committees is very sad. At present, as they have been working for the last few months, they have led to more disputes than settlements. There have been more stoppages of work on their account in the last six months. I have found that formerly disputes were settled much more quickly. What happens now is that first a dispute is referred to these Works Committees, and from there it goes to the Regional Conciliation Board and thence to the Industrial Court and so in going from one Committee to another it takes more time to settle a dispute than it did before. No settlement is possible in the Works Committees as there is always a tug-of-war between labour and management and the dispute is not resolved for a long time. I therefore suggested yesterday an amendment to substitute for the Works Committees "Recognised Trade Unions". I thought that would definitely improve the situation, but it was not accepted. I hope however that the Honourable Minister will consider this point and bring in necessary legislation later.

After all my criticism I must say that this Bill is a historic Bill and India today can boast that she has placed on the Statute Book one of the most important measures that have been adopted for labour welfare—most important measures like the limitation of the hours of work, for instance to 48. We have now come in line with the International Convention of 1919 and as I said the other day we must try to come in line with the Convention of 1935. The Honourable Minister said that he will try to do it as early as possible and it would indeed be a great achievement if he could go forward and fall in line with the Convention of 1935.

Then the other things that he has provided in this Bill are also things which were not so far on our Statute Book and we shall indeed be indebted to him for having done so.

One important thing about which there was controversy was about the employment of women at night. I am sure the House is indebted to the honourable member Mr. Santhanam for the support he gave to the cause of women in this respect. Even the British Act only provides for work by women between 7 a.m. and 8 p.m. I referred to the British Act to see if we are not going beyond what even an advanced country like England has done. The Honourable Minister cannot say that our women are more advanced than the women in Britain. Therefore I think he has made a mistake here and I hope he will soon realise it by experience and see his way to retrieve the error.

Sir, I wish that this Act extended to more fields than has been provided for. I mentioned particularly the dock workers and wanted them to be included under this Act. But the Honourable Minister said there were regulations for them. I have seen the regulations. They do not confer on the dock workers the same benefits as this Bill contains. Again, had this Bill included the building industry also, it would have meant a great deal for our workers, for after all, we have to put up numerous houses—probably several millions—and it would have been a blessing to our workers in that industry if something of the sort of this Bill were extended to them also. I hope that even though the Honourable Minister has not included those industries under this Bill, this Act will soon be extended to them also.

Then, there are certain clauses and certain portions of this Act which can be improved. For instance, about accidents. As I have pointed out, this Bill is not very comprehensive in that respect. Under the English Act, if there is an accident, there is an elaborate enquiry. The Secretary of State orders special

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enquiry into certain accidents and special measures are taken. Here accidents take place and nobody cares for them on many occasions. I hope next time the Minister comes to the House the law in regard to accidents will be improved.

Then, again, in regard to the prohibiting of dangerous substances used in factories there are certain omissions here. It is law in England that in the manufacture of matches white phosphorus should not be used. No such provision is made here. I think therefore that we should take advantage of the experience and wisdom of other countries and utilise it in our legislations. I do not think that we should ignore other peoples' experiences and I hope that the next Bill when it comes will incorporate all the advances made by other industrial countries and see that our Factory Act is in advance even of the most advanced countries in the world.

In the end, Sir, I thank the Honourable Minister for having patiently borne up with my amendments. I think I have put a severe strain upon him. I thank him for the courtesy with which he has replied to my amendments.

Shri Ajit Prasad Jain: Sir, we have reached a stage, when after the welter of amendments and clauses, we can pause and ponder over our achievements and shortcomings. The Bill, as it is now going to be passed, is practically the same as it was when it emerged from the Select Committee. There has hardly been any changes worth the name. There is no doubt that the present Bill is a great improvement upon the existing factory law. Many things which were left vague and to the rule making power find a concrete shape in this Bill. I believe, therefore, that this Bill is quite a bit of achievement. But then the real benefit to the labour will not flow from what we have written on paper, but how it is actually translated into action. An honourable speaker before me has already referred to that aspect of the matter.

During the discussion of this Bill complaints were made that the Provincial Governments have been invested with too many powers for providing exemptions from the various provisions of the Bill. Those exemptions practically remain intact, as they were when the Bill was introduced. I would humbly suggest it to the Honourable Minister that in working this Bill he should give directions, of which he possesses power to do under this Bill, to the Provincial Governments that these exemptions should be made only in exceptional cases. They should not be the rule. In fact, the different provinces in India are at different stages of industrial development and on the part of the backward provinces there is apt to be a tendency not to enforce the Bill with all its rigour, but since we have legislated for the whole of the country and made a uniform law, it becomes necessary that in its actual application it must apply equally well to all the different provinces of the country. The Bill provides for a machinery for supervision and compliance with the provisions of the Bill.

It provides for the appointment of Chief Inspectors and Inspectors. The Honourable Minister said that there were 82 Inspectors for 13,000 factories in this country. Numerically, the number of Inspectors may not be too small; but judging from the extent of the country, the wide area over which the factories are spread over, and the distances between the different factories, I think, Sir, there are good reasons for strengthening the Inspectorate. My own experience is that in many places the work of the Inspector is left to the Collector. The Collector is hardly the person fitted to do that kind of job. He has so many other problems. He has neither the aptitude nor the knowledge nor the will to do this kind of work. I hope that the Honourable Minister will provide a net work, rather a steel frame, of Inspectors who should see to the efficient working of this Act.

I know, Sir, that the Honourable Minister is always very anxious for the welfare of labour and that he will leave no stone unturned to make this Act

work as efficiently as possible. It is in this hope that I congratulate the Honourable the Minister for steering this Bill in the House through its various stages in such good humour and amiable spirit. I hope the same spirit will prevail in its execution and the Honourable Minister will see that the Act benefits oven more by its implementation than from the provisions that it contains.

Shrimati Dakshayani Velayudhan (Madras: General): Mr. Chairman, Sir, the Bill that is before the House now for discussion is nothing but a co-ordination of all the legislation that were passed in the previous years. Formerly, the Central Government was acting in an advisory capacity; but through this Bill, the Central Government is giving directions to the provinces as well as to the States as regards labour legislation. I can say and if necessary I can quote examples to show that the provinces and some of the States have gone even ahead of the Centre as regards labour legislation. If I may be permitted to quote one example, I can say that in one Legislative Council in South India, a Bill was brought in the Council giving the right to the worker to get a maximum of 50 per cent. of the profits. I think that is a piece of legislation which went ahead of the Centre. I do not find any reason to say that there is anything new in this Bill, or that it is an invention. I do not want to say that it is a charter of rights; I do not even want to call it now—revolutionary as the Honourable Minister put it in the beginning, because, we find that this Bill is only a copy of the summary of the previous Labour legislations.

Sir, when we examine the Bill we find a certain amount of confusion and lack of perspective about labour problems on the part of those who are responsible for this Bill. I can cite examples of this. Labour welfare, factory inspection, fixing of hours of work, etc. are all brought about in one Bill. Take for example the case of spitting. In the bill, provision is made to punish a labourer by fine up to a maximum of Rs. 5 if he spits in an unauthorised place. Now, Sir, labour legislation is intended to regulate the conduct of both the employer and the employee. If a labourer spits in an unauthorised place, who is to report the matter? It is the employer who has to report and all the formalities of an investigation will have to be done. The Factory Inspector will have to come and try both the employer and the employee. Suppose a machine tool or a piece of chemical touches the mouth of the labourer, he will all of a sudden spit on the spot; he will not go in search of the spittoon. Are we to impose a fine on that labourer and make an enquiry? This clause makes provision for an enquiry as in the case of a sitting strike or a strike without notice. We must also note that spitting comes under public health and sanitation. It is the duty of the Government and the management to teach the labourers to have clean habits. I think the provision of such a clause in the Bill is futile and we are thereby showing to the public ignorance about labour problems.

Then, Sir, I do not think this Bill is going to bring about a millenium to the working classes of India. The labourers will not feel that there is anything better as soon as this Bill is introduced. There is one principal demand from the labourers: what the labourers want today is better wages and decrease in the number of working hours. Then, there is the fundamental demand which will affect the present social structure. I think the Indian National Trade Union Congress is evolving a formula to solve that problem. That fundamental demand, I can say boldly is profit-sharing by the labourer. If the Government could introduce that system, I think that is the only solution by which we can develop the industries of this country. If the industrialists of this country accept that principle, I think we can avoid even nationalisation of industry. I can assure the House that labour will not sit idle as long as this demand is not conceded. All the other legislation brought about by this House, whether it is bonus or an insurance scheme, or any other scheme, is not going to give satisfaction to the working classes of this country. It is only by giving a proper share in the profits that we can satisfy the labourers and I hope the Government will see that this is the only solution.

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Then, Sir, the other day I referred to the insertion of a clause which gives power to a District Magistrate to act as Factory Inspector. I gave my reasons for objecting to that clause and I should like to know from the Labour Minister the reasons for his retaining such a clause in this Bill.

The honourable member Prof. Shibban Lal Saksena said it is a historic Bill. But I wish to refute the argument. I say it is historic in the sense that it has allowed the management to employ women in factories at night which, if we analyse it in the proper perspective, we can see that it will lead to complete disruption of happy family life of many women.

Sir, I have nothing more to say.

Several Honourable Members: The question may now be put.

Mr. Chairman: The question is:

"That the question may now be put."

The motion was adopted.

The Honourable Shri Jagjivan Ram: Sir, I am conscious that this is the third reading of the Bill and I am not expected to give replies to all the points which have been raised in regard to specific clauses which we have already considered and passed. These points were made then and I replied to them duly.

One or two points have been raised here to which I have to give a reply. I have never claimed that this Bill is going to bring about a millenium for the working classes; I have not claimed that it is a charter of rights for them. I think that it is irrelevant, inopportune and without any relation to the context of the Bill to raise the question of wages and profits. That is a separate question altogether; as to what is to be done in that respect, I may say that Government are fully alive to their responsibilities, and do not stand in need at this late stage of being reminded of their duties in the matter of reasonable wages for the workers or a fair share in the profits. I hope many of the honourable members of this House are aware that we have already proceeded to some extent in the matter of wages and profit-sharing, and any suggestion is too belated at this stage. My honourable friend Prof. Saksena was very sore about the formation of Works Committees. I hold very strong views on this question; I have made it clear on more than one occasion that I stand for the healthy growth of trade unionism in this country, but not the type of trade unions that we come across in this country every day here and there. He has drawn the analogy of trade unions in the United Kingdom. I would like to put a direct question to him. How many of the office-bearers of the trade unions in the United Kingdom are non-working-class people? Is there any non-worker who happens to be President or Secretary or office-bearer or member of the executive committee of a trade union in the United Kingdom? How many such trade unions can you claim in this country where the affairs and the management of the trade unions are in the hands of people who happpen to be workers or who have been workers at any stage of their life? (*Prof. Shibban Lal Saksena: A very large number.*) I challenge that statement. All my efforts are directed towards that end; I want that the management of the affairs of the trade unions in this country should pass into the hands of those who are actual workers or who have been actual workers at any stage of their life. And that is the reason why I want to encourage the Works Committees, so that the workers may learn to stand on their own legs. And I repeat what I said the other day that I do not want these workers to be spoon-fed by outside leaders for all time to come, I do not want the workers to be exploited by trade union leaders for all time to come. It is surprising that opposition to this comes from those who claim to be interested in the welfare of the workers; they say that Works Committees

should not be encouraged because they will make the unions useless. It means that they have created a vested interest which they want to retain at all costs and which I am determined to break.

Prof. Shibban Lal Saksena: The English workers are not spoon-fed but they have also opposed them.

The Honourable Shri Jagjivan Ram: I have drawn a distinction between trade unions here and those in the United Kingdom. There the working class movement is for the working class and by the working class; in India the movement is no doubt for the working class but it is not run by the working class. (*Prof. Shibban Lal Saksena: Question.*) I want to make the working class movement in India for the working class and by the working class. I know it will be unpalatable to those who have created a vested interest for themselves and based that vested interest on the meekness of the unsophisticated labourers of this country. But I will not mind that opposition. I stand for the workers and for their solidarity and unity; and in any step or action of mine which is going to make them stand on their own legs and promote their unity and solidarity I will not care for any opposition. This is the one way which is going to make the workers bold,—these Works Committees where not people like Jagjivan Ram or Shibban Lal Saksena go to negotiate with the employer and sit with him in the chair. It produces a great psychological effect when a subordinate worker goes to his Manager, sits with him and negotiates with him on equal terms. I cannot forget that psychological effect, and we have provided for that in the Works Committees. I wish trade union leaders of this country to realise the importance of the formation of these Works Committees and the psychological effect that this very simple factor is going to create in the working classes; and the sooner they realise the better for the working classes of India though it may work to the detriment of the vested interest of the leaders who are opposed to the formation and growth of Works Committees.

Then, Sir, Babu Ramnarayan Singh has pointed out about the implementation of the provisions of this Act. I am quite alive to this aspect of the question as well. I frankly admitted that up till now the strength of the inspection service in this country has not been adequate and I quoted some figures. I admitted at the same time that in view of the extension of the scope of the Factories Act, the present strength of the inspection service in the country is not adequate, and we have been insisting upon the Provincial Governments to increase their staff. There have been difficulties. The one difficulty is to get the requisite number of the required personnel. In order to make up that deficiency, as I informed the House the other day, we have started a sort of training centre here, and so far we have held two courses. In the first course twenty-two inspectors from the Provincial Governments attended. In the second course eighteen inspectors attended. Every year we are going to have these courses in order to train these inspectors who are engaged in this work in the provinces. With the passage of this Act, when a larger number of workers will come under its purview, we will certainly require a larger number of inspectors. We have been holding regular conferences of provincial Labour Ministers as well as of Provincial Chief Inspectors of Factories so that we may have as much of uniformity in different provinces as is possible. So we are quite alive to this aspect of the thing, namely that the service should be strengthened and there should be maximum possible uniformity in the framing of the rules and in the execution of the provisions of this Act in the different parts of the country.

Babu Ramnarayan Singh has asked me to go and visit the Labour centres and see the condition of the workers. (*Babu Ramnarayan Singh: And to stay there!*) I think this suggestion has come rather too late. I am afraid, Sir, I passed that stage much earlier and there is no necessity for my going and seeing the condition of the working classes. Not only have I seen that condition but I have lived in that condition. That may be an experience for other members of

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this House. But it has not been an experience for me and therefore I say that I stand in no need of studying the conditions of the labourers in this country.

Shrimati Dakshayani Velayudhan: Then why was a Special Officer appointed to study labour conditions especially agricultural labour.

The Honourable Shri Jagjivan Ram: But the lady member presumes that if a Minister knows a subject, he stands in no need of having officers or secretaries or experts or special officers. That is a queer presumption and queer things may emanate from a lady, which one cannot help. (*Mr. P. K. Sidhva: That is not an answer!*) Much has been made of one provision in this Bill which gives authority to the Provincial Governments that they may make rules whereby women can work up till 10 p.m. in the night, and one member has been good enough to remark that the Bill is historic in that respect. I may remark, Sir, that this exemption may not be necessary in the case of those ladies and women who do not stand in need of earning something, who may not stand in need of looking to the help of even their husbands. But certainly it is necessary in the case of those women who have nothing to fall back upon, who are widows, who have orphans to support, who have no lands, no income and no asset except their labour. Are we not to provide that they can earn something to support themselves and their orphans?

Then it has been said that in a country advanced much more than ours—even in the U.K.—this provision has not been made.

Prof. N. G. Ranga: They wanted women to work till midnight! As a matter of fact women are trying in the U.K. to get this provision done away with because they think women are not getting a chance and that these restrictions are standing in the way of their work and so this provision is a very important one.

The Honourable Shri Jagjivan Ram: I was just going to quote one sentence from the English Act which I have in my hand in order to remove an impression that women are not allowed to work beyond 8 p.m. It reads:

"Women may be employed on a system of two-day shifts subject to the following conditions:

One of the conditions is:

"The morning term shall not begin earlier than 6 A.M. and the afternoon shift shall end not later than 11 P.M."

We have provided up to only 10 p.m. Here in the English Act it is up to 11 p.m.

Prof. Shibban Lal Saksena: Section 70 of the English Factories Act, 1937 says:

"Subject to the provisions of this Part of this Act, the hours worked, the period of employment, and the intervals for meals and rest, for every woman or young person employed in a factory shall conform to the following conditions, namely:

(a) the total hours worked, exclusive of intervals allowed for meals and rest, shall neither exceed nine in any day nor exceed forty-eight in any week.

(b) the period of employment shall not exceed eleven hours in any day and shall neither begin earlier than seven o'clock in the morning nor end later than six o'clock in the evening in the case of young persons who have not attained the age of sixteen, or in other cases eight o'clock in the evening, or, on Saturday, one o'clock in the afternoon."

So, for women 8 o'clock in the night is the limit.

Prof. N. G. Ranga: That is not the latest position.

Prof. Shibban Lal Saksena: It is the prevailing Law today.

The Honourable Shri Jagjivan Ram: I do not proceed solely on the analogy of western countries. We have to look to the interests of our country, and even if the English Act does not provide . . . . . .

Prof. N. G. Ranga: It does!

The Honourable Shri Jagjivan Ram: I say it does and I have just quoted from the English Act. But even if it does not so provide, I do not proceed simply on the example of the western countries and I shall never agree that whatever is done by the Western countries, nay, whatever is done by the United States of America and the United Kingdom, is such as should be blindly imitated by us.

Therefore, in the interests of those women who have to maintain their orphans, who have to stand on their own legs, it is necessary that an opportunity is given to them so that they may earn their bread and be able to support their orphans. I therefore feel that that provision is a healthy one. After all we are giving power to the Provincial Governments. We are not giving power to children.

Shri K. Santhanam: You should have made it mandatory!

The Honourable Shri Jagjivan Ram: The Provincial Governments will utilise that power. I do not want to take more of the time of the House. As I said I am not going to reply to the minor points raised about spittoons and spitting. I cannot be blamed if some members cannot think of anything else but spitting and spittoons.

5 P. M.

Shri Prabhudayal Himmatsingka: Sir, I make a request to the Honourable Minister to consider the other suggestion of Prof. Saksena to extend the scope of the Bill to include a place as a factory where speeches are made and Bills and resolutions as produced so that on the basis of the legislation passed you can have more breathing space and fresh air for every member in this Assembly?

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Moday, the 30th August, 1948.